

No. 2905

IN THE
UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE NINTH CIRCUIT

CLALLAM LUMBER COMPANY, a Corporation,
Plaintiff,

Appellant

vs.

CLALLAM COUNTY, a Municipal Corporation, and
CLIFFORD L. BABCOCK, Treasurer, De-
fendants,

Appellees

RECORD ON APPEAL

(In Four Volumes)

Vol. 3—Pages 437 to 762

ON APPEAL FROM THE UNITED STATES DIS-
TRICT COURT FOR THE WESTERN
DISTRICT OF WASHINGTON, NORTHERN
DIVISION.

Filed

SHERMAN PRINTING AND BINDING CO., SEATTLE, WASH.

JAN 2 - 1917

F. D. Monckton,
Clerk

CROSS EXAMINATION

Witness reads most of the news papers. He is asked the following questions:

“Q. And during the campaign of Mr. Hallahan and Mr. Hansen wasn't there frequent mention in the newspapers of the desirability of placing a high assessment on the timber owners?”

MR. EWING: I object to that question in that form unless it connects these two men with it.

THE COURT: Objection overruled.

MR. EWING: Note an exception.

THE COURT: Exception allowed.

A. I believe in one paper there was some mention, yes, sir, at one time, of that.

Q. And did these two gentlemen, Mr. Hallahan for assessor, and Mr. Hansen for County Commissioner, go out with the expressed, or implied, platform, and run on that platform of placing a high assessment on the timber; don't you know that as a matter of fact?

A. I do not.

Q. You do not know that?

A. No, sir.

Q. You never heard of anything of that kind?

A. There may have been one or two said something like that; I never heard of any concerted action on their part.

Q. Do you mean to say that you did not know of Mr. Hallahan's running on that platform, and having made pledges as the prospective County Assessor, about placing a high rate of assessment on timber?

A. No sir I did not.

Q. You do not know that?

A. No, sir, not that he ever made pledges to place a high rate of assessment on timber.

Q. Without making any express pledge don't you know that he ran on that understood platform and plank?

A. No, sir, I do not know.

Q. Are you dead sure of that?

A. Well, I would not say that he did not say it

to some people. I never heard him say it, or never heard him express it in any way around where I was around."

Witness says he does not know that it was generally understood so, would not say that it was not so generally understood, because he could not answer for what other people understood. His statement with reference to Mr. Hallahans would apply also to Mr. Hansen. Would say that it was not generally understood that Hansen was running on a platform of "sticking it to the timber owners".

Witness had heard of the Taxpayers League; thinks it was started in the east end of the county; does not know that the League was formed for the express purpose of influencing the County officials to place a high rate of assessment on timber, but does know that some officers of the league came down and made an awful kick on the assessed valuation that was placed on timber. Does not know personally of this incident. As witness understood it, the purpose of the tax payers league was to get a more equal assessment of all the lands. From the way the assessed valuation of Port Angeles property has been "boosted", witness thinks it has been the general intent of the county officers to raise the assessed valuation of all classes of property, including valuations on Port Angeles real estate and stocks of merchandise, which have been raised the same as all other property has. While there maybe two or three that express such opinions, witness never heard the general expression that any section of the county should be discriminated against.

(Witness excused.)

C. F. BROWN, a witness called by the defendants, sworn, testified as follows:

DIRECT EXAMINATION

Has lived in Port Angeles for twenty-four years; is a lawyer; is a Republican in politics, but not particularly active. Is informed on local political conditions. Mr. Brown knows Mr. Hansen, Mr. Hallahan, Mr. Babcock, and Mr. Lotzgesell; was familiar with their

campaigns and knew what they were doing; never heard of any such conspiracy as is charged by plaintiffs. Has no knowledge, and has never heard of any conspiracy, confederation, understanding, agreement or concerted action of any kind between the assessing and equalizing officers of Clallam County themselves, or between them and any other persons, to discriminate against Ruddock & McCarty, the Clallam Lumber Company, or any other persons in Clallam County, or in favor of any person or corporations in the matter of the assessment or equalization of taxes of Clallam County for the years 1912, 1913 and 1914. If there had been any rumors of such conspiracy, they certainly would have come to his ears.

On cross examination witness states that the bulk of his property is in Port Angeles City lots, though he owns some small timber holdings up on the Sol Duc River. One comprises 140 acres and the other is a half interest in 160 acres, described respectively, as lots 2, 3, 14 and 15, in Section 30, Township 9, Range 29, and the 143 acres in the Northeast Quarter of Section 2, Township 30, Range 10, which he has owned for 10 or 11 years. All of the men inquired about, Babcock, Lotzgesell, Hallahan and Hansen, are personal friends of witness. His interest and participation in local politics was sufficiently active so that he could get all the local political gossip.

On redirect examination witness says that he is chairman of the County Central Committee of the Republican Party, and has been so for one year.

(Witness excused.)

CHARLES HAGGITH, sworn as a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION

Witness is a broker, real estate and insurance man, and has lived at Port Angeles for eight years; engaged in this business for twelve years. Witness says that in the early part of 1912, the Port Angeles real estate market was very quiet. In November of that year, certain parties created a premature boom, during which property was sold at prices never realized before, nor

maintained since. The operations of those parties lasted during November and December, 1912. The effect did not subside until early in 1913. This activity of 1912, induced outside real estate agents to flock to Port Angeles and open offices; and there were a great number of operators who came there at that time, and remained only for a few months. Property has since depreciated to practically its former level. This boom condition was slightly natural, but almost wholly artificial. The men who brought it about were C. P. Dodge, of Seattle, and other real estate men, amongst others, H. C. Petit, John Davis, Dr. Smith, and Mr. Ankeny. None of these men named maintained offices in Port Angeles, except Mr. Petit, for about six months. Mr. Dodge picked out a certain business section down town on the water front, wrote to the owners, and took options, as far as possible, on this property. All the first operations were done under options. The sales were largely made to real estate offices. The operations of others were all the same, with the exception of Mr. Petit. Mr. Dodge sold everything that he had bought with the exception of one lot. The sales of this property were practically closed before the end of 1912. Mr. Dodge was representing Mr. Ankeny, Mr. Davis, and Mr. Smith. Mr. Dodge's operations were largely done under cover because he wished it to be known that he was buying, and he had practically made his sales before the local people and the other operators knew it, and he was buying at the same time he was selling.

Witness says that the population of Port Angeles is now between four thousand and forty-five hundred. A census of school children recently taken by the chairman of the school board, gives a population of forty-four hundred. If the whole town were sub-divided into lots, witness thinks there would be twelve thousand lots, 50 by 140 feet; allowing six lots to the acre, would make about two thousand acres. If apportioned amongst the population, this would make three lots per capita, or twelve to a family of four, or two acres of ground.

Witness has wide acquaintance in Port Angeles; knows practically everybody in town. His acquaintance is such that rumors of a political combination existing would reach his ears if any were made. He is a Republican. Keeps in touch with the political situation. He knows Mr. Hansen, Mr. Hallehan, Mr. Babcock, and Mr. Lotzgesell. Mr. Lotzgesell is not a resident of Port Angeles, but of Dungeness, fifteen miles away. Mr. Hallahan is a democrat. The others above named are republicans. Thinks the issues of the campaigns of those men for office were along party lines. There were no local issues.

Witness has no knowledge and has never heard of any conspiracy, confederation or understanding or agreement or concerted action of any kind between the assessing and equalizing officers of Clallam County themselves, or between them and any other persons to discriminate against Ruddock & McCarty or the Clallam Lumber Company or any other timber owners in Clallam County, or in favor of any other persons or corporations in the matter of the assessment and equalization of the taxes of Clallam County for the years 1912, 1913 and 1914; and that if the same had actually existed or had been generally rumored, it would have come to the knowledge of the witness.

Witness' qualifications as a real estate expert are admitted by plaintiff.

Witness is familiar with the recent sale of the property known as Hanning Hall, situated on lot 20, block 14 of the townsite of Port Angeles, regarding which Mr. Ware testified that its value was \$15,000 on March 1, 1914. He personally took the option, at the time Mr. Hansen owned it, and made the sale, and subsequently acted as agent for the owners, collected the rent, and looked after the property for a year. He took the option in the later part of October, or November, 1912, and the sale was made before the 1st of the year. The consideration was \$10,500.00. This lot was never worth \$15,000 with the improvements. Prior to that time this lot was offered by Mr. Hansen to the witness for \$5000 with the improvements; that is,

prior to the active movement of that fall. It had been on witness' list for years, with a five per cent commission.

In witness' opinion only the business improved down town district in Port Angeles furnished a definite basis for valuation at all times during the period between March 1st, 1912, and March 1st, 1914.

CROSS EXAMINATION

On cross examination witness admits that the downtown district referred to was substantially the improvement district No. 11, included in the Wiley & Morse sluicing contract, except the eastern part of this district, which is wholly unimproved.

Witness would say that the sale of lot 19, block 15, by J. C. Christensen in September, 1912, for \$9,-500.00, was a part of the boom of November and December, 1912. Witness has heard that this was the consideration for this sale.

Witness is satisfied that the sale of three corner lots at the southeast corner of Laurel Street and Front Street, by John Hansen, chairman of the Board of Equalization, to Mr. Glines, president of the Olympic Power Company, for \$50,000.00, was a part of the boom movement. Witness took the option and made the sale. That was the correct price. The option was taken in November, 1912. This was one of the first options the witness took. They took a number of options, and Mr. Hansen had been offering the property for \$35,000 and the witness thought if he could get an option at that price there was an opportunity to make some money, so he went to Mr. Hansen with the intention of getting an option, and that is how he came to get the option on Hanning Hall. The property is described as the west 5 feet of lot 6, and lots 7, 8 and 9, in block 16 of Norman R. Smith's subdivision; 155x140 feet, with a 2-story frame building. The frame building is occupied by a bank and stores, and at that time contained the post office, 155x140 is the size of the building, that is the frontage of the building; there is a court on the back that is not covered, and a two-story building with what is known as the Port Angeles

opera house above the offices. The option was obtained in November of 1912. The transfer of the property is in escrow at this time. Witness does not think that the mortgage and deed have ever gone on record. The transaction is in the shape of a contract, the deed and mortgage and notes are all included, but are held by the Clallam County Bank, which has an equity in the property and is holding the papers in trust. The Bank of Clallam County is situated on that corner, and was a tenant of Mr. Hansen, who was the owner of the property. These men, John Davis, R. V. Ankeny, and Dr. Smith, referred to by witness as conducting the boom in Port Angeles, are all prominent and wealthy business men of the city of Seattle, and have been so during the eight years that witness has been on the Coast. The Milwaukee Railroad first began construction work at Port Angeles in the early part of 1913. They have made surveys and, perhaps, done some preliminary work prior to that time. This construction work has progressed steadily ever since.

The work on the big mill started about 1913. So far as the number of men employed is concerned, that is the largest industrial plant in the county.

The Olympic Power Company turned on its power in about December, 1913, and it has been operating continuously ever since, without any shut-down, but the amount of power used has never been increased. They furnish light and power for Port Angeles, Port Townsend, to the U. S. Navy Yard at Bremerton, to Charleston, and Sequim.

Witness admits that Port Angeles people had expected a great deal of advancement in values of real estate by the construction of the railroad, and the completion of these industrial plants; but that thus far the railroad, except for making possible the operation of the mill, has not done the town a great deal of good, for the reason that it has no outside connection. It has no passenger schedule, and the road is operated wholly as a logging railroad. Witness admits that all of Port Angeles lumber is being taken, so far as the railroad traffic is concerned, on the Milwaukee car

ferries, and the export business is being taken care of by steamboats, and the passenger business from Port Angeles is being taken care of by the boat service of the Puget Sound Navigation Co.

Witness will not admit that this talk of depreciated values is manufactured depreciation.

Witness says that in 1912, there was a great deal of optimism in Port Angeles as regards the beneficial effects of the railroad and the mill. To-day the railroad is a partial realization. It has done the town very little good; only insofar as effects the mill. The railroad is employing at this time only four men in their office. That has increased the population of Port Angeles by four families, and none of those has, as yet, purchased homes in Port Angeles. The mill employs about 350 to 400 men, and not 5 per cent of those have ever made arrangement for a permanent residence in Port Angeles. Mr. Earles maintains a store at the mill, and supplies his help with groceries, dry goods, meat, and practically everything that they require; so that, the mill, outside of furnishing work for some few people who have always been residents of Port Angeles has not had the effect that they anticipated.

Witness admits that ten colonies have sprung up in the section where those employees live; they have not built cottages or bungalows, not over five per cent. The mill is two miles from the town. Witness says that some people in Port Angeles have discovered quite a long time ago that these things haven't brought the anticipated prosperity. Asked as to how long ago his real estate office discovered it, witness says, "Well, I can only say that the business that we have had with the mill employees has been disappointing.

Q. You haven't been able to sell those mill employees some of those lots that you own that you expected to sell?

A. That is what I mean, exactly."

Witness says that he was impressed with the depreciation of Port Angeles values early in 1913, realized it fully the first of the year, 1914.

On further cross examination witness Haggett

says, that while the real estate operations of Mr. Dodge and his associates practically concluded in 1912, the activity of the market attracted other people, such as McCutcheon Bros., who were large Canadian operators, who established an office in Port Angeles in March, 1913. Values did not depreciate immediately, but the demand did. Witness would not say that property sold as high in 1913.—The course of the market kept going down, and is to the present time. Witness says that the help employed during the construction of the big mill was largely foreign help, and the skilled labor, millwrights and the like, were mostly imported, and were single men, with headquarters at the mill boarding house.

"Q. It is your view that impetus given by these three large industries going there, did not begin until the spring of 1913.

A. Yes sir, it did; for the reason that during the fall of 1912, the commercial body, and others interested in the building of the railroad, and the building of the mill, had a number of meetings in the opera house, and as you possibly know, raised approximately one hundred and ten thousand dollars as a bonus for the mill and the railroad and all of these.

Q. For the Mike Earles mill and railroad?

A. Yes, sir, the local people, I think, donated twenty-five thousand dollars for the purchase of the site of the Earles Mill, and during the soliciting of all this bonus they held meetings at which more or less optimism was shown, and the papers published, everything possible in order to raise this bonus, and I think it was largely the effect of that that created the psychological moment for that boom, and Mr. Dodge and his associates realized that there was a psychological moment.

Q. The public in Port Angeles, as I understand it, did not realize that the mill was not going to bring them what they thought, and the railroad was not going to bring them what they thought, until the spring of 1914."

Witness thinks the big mill was operating early

in 1914; was being tried out in March, 1914. Admits that it was not until the mill began to be operated that the Port Angeles people discovered that the mill operators were not going to buy from them. At the time that bonuses were solicited Mr. Earle had stated that the mill would not maintain a store. Of these bonuses, \$25,000 was to the mill, and \$85000 to the Milwaukee railroad.

Witness would think that the mill property occupies perhaps twenty acres of ground.

REDIRECT EXAMINATION

On redirect examination the witness says that the Glines sale was not a cash transaction, but on terms. Witness thinks that the actual cash payment was \$5000, and that there is now about \$33000 of the \$50,000 unpaid. The actual cash paid on the transaction up to this time is seventeen thousand dollars on the property. The original terms extended over five years but since that time there has been a change made in it. Mr. Glines was interested in the Power Company and the difficulties that Company had made it necessary to negotiate different and more lenient terms. This is the same tract that the witness described as containing an area of 155 by 140 feet. Witness states that town lots in a town such as Port Angeles, are articles of speculation just like grain on the Board of Trade, and that they had a "Bull Market".

Being requested to illustrate on the map of Port Angeles (Defendant's Exhibit) where the Mike Earles mill is with reference to the rest of the town, witness states that, "The original Earles property occupied Block F and Block E of the Stimpson tract; since that time they have acquired the tidelands in front of Blocks 134 and 135, making the property at this time square on the West with K street. The retail district takes in from Lincoln to Oak on Front, with some stores on First between these same streets. The distance from the town to the mill is about a mile and a half or a mile and three quarters.

On cross examination witness admits that the town is continuous from the business district to the

mill. In that it is all platted property and the streets are continuous and open out to the mill, and have been since the mill was built, Third street being a continuous thoroughfare from the mill to the business section. That there are streets and town lots with an occasional residence and an occasional small store that has been opened up since the mill was built. The streets are now opened out to the mill, and there are continuous town lots and streets between the business district and the mill.

Witness admits that Mr. Glines is personally obligated on the note for the purchase price of the above purchase, and he is, and at all times referred to, has been financially responsible.

REDIRECT EXAMINATION

“Q. You have always been rather optimistic, haven’t you?

MR. PETERS: I object to that.

Q. Would you be willing to do anything to help your town along, that you could, even now?

A. We have always tried to.

Q. Done all that you could to boost it and help it along?

A. Yes sir, a little in excess of good judgment, I guess.

Q. (Mr. Earle) You are doing all you can to help the town along now, aren’t you?

A. Yes sir.

Q. (Mr. Riddell) Does that influence you to change your testimony?

A. No, sir.

(Witness excused.)”

CLIFFORD L. BABCOCK, sworn as a witness for the defense, testified as follows:

DIRECT EXAMINATION

Witness has been a resident of Port Angeles for twenty-six years. At present time is connected with the Port Angeles Trust and Savings Bank; was County Treasurer from January, 1911, to January, 1915; Republican in politics; knows John Hallahan, the as-

essor, who ran for office at the same time the witness did. They didn't make their campaign together. Has been active in Clallam County politics twenty-six years. Witness has been active enough politically so that he has been in touch with the political rumors and political activities of the political parties in Clallam County during that time. Whatever activities were going on in the Republican party locally he would know about.

Witness has no knowledge and has never heard of any conspiracy, confederation, understanding, agreement, or concerted action of any kind between the assessing and equalizing officers of Clallam County themselves or between them and any other persons to discriminate against Ruddock & McCarthy, or the Clallam Lumber Company, or any other timber owners in Clallam County for the years 1912, 1913 and 1914. That no such conspiracy as that has been entered into.

Witness did not make campaign on the issue of taxing the timber owners. Witness' interest in local politics is such that he would have known of the existence of such agreement, or such rumor, if there had been such.

Witness remembers a man by the name of E. H. Grasty. The first occasion he saw him was when Mr. Philips, the cashier of the bank of which Mr. Babcock was stockholder and vice-president, called Mr. Babcock over the 'phone, and asked him to come down to the bank and meet a gentleman from Portland. Witness' best recollection is that it was under such circumstances that Mr. Philips introduced witness to Mr. Grasty. Being requested to go on and state from that time on what his experiences with Mr. Grasty were witness answered as follows:

"A. Yes, sir; I cannot state in the exact words, perhaps, the entire conversations at different periods in connection with Mr. Grasty, but the substance of his talk and conversation was that he came down there for the express purpose of making a loan to the Elks Lodge.

Q. Are you an Elk?

A. I am. I will state that I am an enthusiastic member of the lodge and was very anxious to secure a home, a building for the lodge, and we realized that we had a splendid site, which was practically paid for, and we were, all of us, willing to use every effort and strain every point for the purpose of constructing a building that would be a credit to the town, and benefit to the lodge. With that end in view every one that indicated his desire or willingness, or made the least intimation to us that he could furnish money was received with open arms, and we put ourselves out to make it pleasant for him, and secure, if possible, a loan. Mr. Grasty stated that he came down there for that purpose, to make a loan to the Elks Lodge, and desired certain information. And during his different visits and the different committee meetings that he had with the committee, which I attended,—In fact, I will state that I was very instrumental in getting the committee of the Elks Lodge, the building committee at the time, to go to meet Mr. Grasty.

Q. Let me ask you if this matter of securing this loan from Mr. Grasty, or anybody else that you could get it from, was made a lodge feature?

A. Yes, sir.

Q. The whole lodge was working on it, were interested in it?

A. Casually; but in a large body of men that way there is always a few to do the work. I think I was at that point—

Q. You said that he desired certain information—

A. Yes, sir, that he desired certain information from the lodge committee and from the citizens of Port Angeles that would aid him in furnishing this money to the lodge; and I believe that we asked for forty thousand dollars at that time. He stated to the committee and stated to me that the assessed valuation of that property was low and it would be necessary for him to have representations to the people who were to furnish the money, showing that the property was under assessed, or he would be unable to supply

us with the money required. I used every effort that I could to get such representations from the members of the lodge that would enable him to satisfy the people that were going to put up the money.

Q. Let me ask you, at that point you put high valuations on property, didn't you?

A. We did.

Q. Let me ask you what were the considerations with reference to the use which was to be made of that money which justified you in putting valuations upon the property, what was the money to be used for?

A. That seems to me like a large question that cannot be answered except the last part of it.

Q. What was the money to be used for?

A. The construction of an Elks Lodge.

Q. Upon the same property that you put the valuations on?

A. Yes sir.

Q. The money then went right back into the property?

A. It did.

Q. It was not to be used for any other purpose?

A. It was not.

Q. Was that fact an influence in justifying you in putting valuations upon that property that you did put upon it?

MR. PETERS: I object to that as leading.

THE COURT: The objection is sustained.

MR. EWING: Note an exception.

THE COURT: Exception allowed.

Q. To what extent did such consideration influence you in putting your valuations upon the building,—I mean upon the lots?

A. Well, very largely. I will say in connection with that, that we were willing to go to most any extent with this man Grasty, because he had gained our confidence in relation to what was absolutely necessary. We believed, that if we could so represent to him, that he had clients that would furnish us with the money, and I felt satisfied, and do today, that had he lived up to his agreements with us and furnished

the money, that the money would have all been paid back, and nobody would have lost a cent in connection with it. I will say that we are about to construct a building at the present time. The contract was let yesterday."

Witness says that there are four hundred and forty members in his Elks Lodge. The members are very active.

"Q. And in conferences that the Elks committee had with Mr. Grasty, I want to ask you who led the conversation with reference to comparisons of assessed and actual values of property?

A. Mr. Grasty.

Q. Can you illustrate how he did that, just give a general idea of the conversations with him?

A. My recollection is, that every one that came in, and every conversation that was had with him that at all times he wanted to know why the assessed valuation was so low. It was almost impossible, he said, for him to get the money with the assessed valuations so low. I did not understand why he wanted the valuations raised, except that he represented that it was necessary for him to show to his people a large valuation, or he could not get the money."

Mr. Grasty attempted to direct the estimate of valuations upward. Witness recalls giving Grasty a letter as to comparison of the assessed and actual values of property in Port Angeles, and is shown plaintiffss exhibit "M," which he recognizes as such letter. The letter was handed to Mr. Grasty on his second visit to Port Angeles. Mr. Grasty told me just what he wanted the letter to contain, said that he wanted me to state in the letter that the property was assessed lower than the true value; he suggested 10% lower. Witnessed furnished him the letter "M".

Q. How far were you influenced in writing that letter by the suggestions that he had made as to the contents he desired to have you put in it?

"A. Mr. Grasty did not dictate this letter, but it was written and the entire contents, almost entirely,

as suggested by Mr. Grasty, as suggested and requested.

Q. Mr. Grasty testified as follows: "Q. Was there any reference made to the method of assessing the timber lands in that county by Mr. Babcock? A. Not at that interview. There was no reference made to that, except on one morning when Mr. King was with me, Mr. Babcock very kindly took Mr. King and I for an auto ride, showing us the territory adjacent to Port Angeles, that is, the logged off land, and some of the farming country, the Elwah River, and some scenery, and he drove us over the city in a brief way. And on this trip I remarked to Mr. King—— Q. Was that in the hearing of Mr. Babcock? A. Yes, sir, I remarked to Mr. King that if Oregon had the roads that Clallam County had, they could be very proud of them. Mr. Babcock replied by saying, "that Clallam County has a great deal of wealth, and especially in its timber, and the taxes against timber here is very high." He said, "These roads will be built out of the funds that we derive from taxing the timber people." And I remarked, after he got through, "Yes, I so understood from Mr. Keeler of Sequim." I represented that Mr. Keeler had informed me that the reason the people in Clallam County had voted to build such fine roads was on the strength of being assured that the timber owners in the Western part of the State would be taxed sufficiently to pay for these roads, and that it would not come out of the pockets of the local people." Q. Was that statement made to Mr. Babcock? A. That statement was made to Mr. Babcock and Mr. King. In other words, I simply referred to that on account of Mr. Babcock referring to their plans with regard to building the roads, and how easily the timber, (improvement) bonds were voted to make those improvements. Q. Did Mr. Babcock assent to that, or dispute it? A. He did not dispute it." Q. (To Mr. Babcock): Did the fact that you did not dispute a statement of that sort mean that you acquiesced in it?

MR. PETERS: I object to that as immaterial and irrelevant.

Q. Do you recall that incident that Mr. Grasty testified about?

A. A part of it, yes, sir.

Q. Give your own version of it, but particularly with reference to what was said about the timber valuations and taxation?

A. In showing Mr. Grasty and Mr. King over the town I was anxious, of course, to make as good an impression of Clallam County as I possibly could, of our fine roads and townsite. I was very aptomistic, and still am, with relation to Port Angeles, and I presume, in fact I know, that I did state that our roads would be paid for by the taxes on the timber. I think that I stated to him at that time that timber in Clallam County paid at least eighty per cent of the taxes, and that the roads therefore largely come out of the taxes on timber, but I did not state that the timber was taxed very high.

Q. Was there any intimation in anything that you said to Mr. Grasty in that regard that should have reasonably led him to believe that you referred to a dishonest or unfair discrimination against the timber men in the matter of taxes?

MR. PETERS: I object to that as leading.

THE COURT: Objection overruled.

Q. What, if any, intimation did you give to Mr. Grasty in your conversation with him on that occasion with reference to any supposed discrimination against the timber owners of Clallam County in the matter of taxation?

A. I did not give any at that time, nor any time.

Q. What are the facts in that regard, what are the actual facts? I am not referring to the conversations, but what are the facts with reference to discrimination being practiced against the timber men in Clallam County in the matter of taxation and assessment?

A. There were none. Let me qualify that. There is none against the large log timber holders. I be-

lieve now, as I have always believed, as I said at the Board of Equalization, that the small individual holders were assessed too high.

Q. Why?

A. Because it was impossible for them to log, or get any money out of their property in a small way.

Q. Because of the smallness of their holdings?

A. Because of the smallness of their holdings and the isolated condition.

Q. Notwithstanding your own attitude on the Board in that matter, what are the facts with reference to the assessment being the same?

A. The assessment is the same.

Q. And has the Board of Equalization ever reduced the taxes on the small timber men on the consideration that you suggested?

A. They have not, and refused to against my wishes."

"Q. Now, in testifying further, Mr. Grasty said this: "Q. By the way, did Mr. Babcock know at this time that you were inquiring for the purpose of finding the discrepancy between—what you took to be discrepancies, between the supposed market value of real estate down there and the assessed value? A. Yes, sir, he understood that I was trying to ferret out the true status of affairs regarding property values, and he was assisting me along those lines, and explained to me the difference, the discrepancy." Did you know that Mr. Grasty was trying to ferret out the true state of facts?

A. No, I did not.

Q. Did you find it out afterwards?

A. I did not find it out until last Saturday in the court.

Q. You did not know he was ferreting until then?

A. I did not.

Q. (Reading) "Q. (The Court) In this remark you made to him, you simply said he did not deny it?

A. Mr. Babcock did not deny that statement. Q.

When you told him what the man at Sequim had told you? A. Yes, sir."

WITNESS: I should say to the Court that possibly I was driving the car, and there might have been some of this that I did not hear. Mr. Grasty sat on the back seat, and Mr. King sat in front of me. I do not remember any such conversation.

Q. Did you ever, either by express assent in words, or silent assent by not answering, intend to convey to Mr. Grasty, any information that there was unjust discrimination against the timber men in Clallam County on the score of the assessment and taxation of their property?

MR. PETERS: I object to that as leading, what his intentions were.

THE COURT: Since he says he did not hear the conversation he could not have got any intention about discrimination, or affirmation, or any other intention. It would be much clearer, though, if he would state how much of that conversation, if any, he did hear.

Q. Well, state that, Mr. Babcock?

A. I do not remember particularly what Mr. Grasty said at that conversation. Most all the conversation was between Mr. King and I, and that was in relation to the county roads and the conditions of them, and the townsite; and we drove by the Elks' property and showed them over the town, and a view of the city.

Q. (The Court) What I was speaking of is, how much of this conversation in which Mr. Grasty told Mr. King what this man in Sequim had told him about what the plans were; you need not tell about the other?

Q. (Mr. Ewing) How much of that did you hear?

A. I do not believe I could say.

Q. Do you recall Mr. Grasty trying to induce you to get from Mr. Hallahan, the assessor, a letter similar to the one that he obtained from you?

A. I do.

Q. State your version of that?

A. He asked me to do so.

Q. What did he ask you to do?

A. He said that he wanted a letter from the assessor stating why he had under-assessed, or placed a low valuation on some of this town property, and said that he wanted to have something from the assessor in order to show the people why this property was not assessed at its full and true value. I told him I would speak to Mr. Hallahan in regard to it, and I did not do so.

MR. PETERS: I did not catch that.

A. I did not do so.

Q. I understood you to say that you told him something?

A. I told him I would speak to Mr. Hallahan.

Q. (Mr. Ewing) To what extent did Mr. Grasty indicate in making that request of you the contents of the letter that he desired to have you obtain from Mr. Hallahan?

A. It was to be a similar letter to the one that I had written to him.

Q. To what extent did he make reference in his request to the matter of the difference between the assessed and the actual values of property?

A. Less than half.

Q. Do you mean that——

MR. PETERS: Now, don't lead him. I am perfectly willing to have him tell you everything that Mr. Grasty said, and everything that he said. I don't want the suggestions.

THE COURT: The objection is sustained. He can explain what he means."

CROSS EXAMINATION BY PLAINTIFF.

Witness was county treasurer for four years, and during that period was a member of the Board of Equalization. The Board of County Commissioners has charge of the assessment work for 1912, was composed of Mr. Hanson, Mr. Erickson, and Frank Lotzgesell, and ex-officio of the witness as treasurer, and of the assessor, John Hallahan. Mr. Hansen came from Port Angeles, residing there, and had property

there; Mr. Lotzgesell came from Dungeness, fourteen miles east of Port Angeles, and had property there. Mr. Erickson came from the west end of Clallam County, and had property in Port Angeles; ran a little store down at Mori, a post office in the west end of the county. In 1914, the Board was composed of Mr. Hansen, Mr. James Clark, and Mr. Lotzgesell. Mr. Clark lived in the western part of the county.

Witness has been vice president of the Port Angeles Trust and Savings Bank since about the 20th of February, 1914. The company was in existence the 1st of March, 1914, doing business. The capital stock was \$25000, all paid in. He does not remember what the bank stock was assessed for in 1914. Admits it might have been assessed for \$2000. Admits he sat upon the Board of Equalization that passed upon that assessment. Mr. Philips, who introduced Mr. Grasty, was not an Elk. Mr. Grasty had told witness that he had clients who could make the loan on the Elks building; said there had been application made to him for this loan. Witness, as local Elk, knew they wanted to borrow \$40,000 on the property to build a building. Mr. Hansen, Mr. Trumbull, Mr. Elliott, and Mr. Fisher, were on a committee of the Elks to negotiate this loan with Mr. Grasty. Witness knew that it was not Grasty's money that was going into the loan, but Grasty was going to get somebody else to put their money into the loan.

"Q. And he stated to you that he thought that the assessments appeared, the property appeared to be assessed very low, as compared with the valuations that were given him by the Elks and other people of that and other property in Port Angeles?

A. Words to that effect, yes, sir.

Q. That is the very way the matter arose, isn't it?

A. I think so.

Q. That is all you were talking about?

A. The Elks loan.

Q. What he was talking to you about—there

wasn't any question in your mind at that time but what you wanted \$40,000?

A. None whatever.

Q. And he told you that he had a client that had \$40,000?

A. Yes, sir.

Q. Was willing to put it in a building on the property?

A. Yes, sir.

Q. Then the only question left was whether the valuation of the property would justify the loan, wasn't that it?

A. Yes, sir.

Q. That was the whole thing that was discussed between you all, whether the fair valuation of the property would justify the loan of his client's money of forty thousand dollars?

A. That is what he represented.

Q. And that is what you believed?

A. I did not.

Q. What did you think?

A. I believed that if a building was put back into the property that it was ample to secure the loan, and he did not believe so.

Q. But what I mean is, that the whole matter under discussion was the value of the property for the purposes of the loan?

A. So he represented, yes.

Q. That is what you knew; that is what you were discussing?

A. Yes sir.

You had in mind then that some Portland people, through a man by the name of Grasty, were going to put forty thousand dollars into this building, and you thought then that the information was desired to satisfy those people who were going to put their money in, that there was that value there in the property?

A. Absolutely.

Q. That was it?

A. Yes, sir.

Q. And such information that you gave was in-

tended to advise those clients of his in Portland as to what your judgment was of the actual value of that property?

A. Upon his request and recommendations, yes, sir.

THE COURT: We will take a recess until 1;30 this afternoon.

September 10, 1915, 1;30 o'clock P. M. trial resumed pursuant to recess, all parties present.

Q. (Mr. Peters) Mr. Babcock, referring to this letter of April, 2, 1914, from yourself to Mr. Grasty, Plaintiffs' Exhibit "M". Where were you when you wrote this letter?

A. I think I was in the office of the Treasurer of Clallam County.

Q. Who else was in there?

A. I do not remember. I presume my deputies, Mr. Stegmiller and Mr. Keeley.

Q. What time of day did you write it?

A. I do not remember.

Q. It is dated the 29th day of April, 1914.

A. I do not remember.

Q. What time of day did you write it?

A. I do not remember.

Q. Was Mr. Grasty there at that time?

A. I don't think so.

Q. When did you deliver it to him?

A. I don't remember.

Q. How many days afterwards?

A. I don't remember.

Q. How many days, do you remember?

A. I think it was either the same day, or the next day probably. I don't know it was at any time.

Q. He wasn't there when you wrote the letter in your office?

A. I don't think so.

Q. Do you know whether it was during the time that he was in Port Angeles, that you wrote it?

A. I think so.

Q. How long after you had the conversation with him and promised to write, it, did you write it?

A. I think right off.

Q. You think it was right off?

A. I think so.

Q. Now you say in that letter "the people of Port Angeles have been afraid of high taxes and believed that if the valuation of former years was raised to anywhere near the true value of the property at the present time their taxes would increase in like manner and the assessor has been influenced by that attitude", was that true or was it false?

A. I think that was largely false. I do not believe that is true. It was true to this extent: that we had just had a flurry and a few lots had been sold extremely high, and I honestly believed at that time that those values were going to continue, perhaps.

Q. I am not asking you; perhaps you did not understand me.

A. I guess not.

Q. At the time that you made that statement on April 29, 1914, was it to your knowledge and conscience true or false?

A. The exact words of that letter—I did not just understand you.

Q. I refer you to one of the clauses in the letter. I will read it again, if you wish me to,—or would you prefer to read it,—(Handing witness letter) Just read that sentence out loud.

A. The second clause?

Q. Yes, sir, if you please.

A. "The people of Port Angeles have been afraid of high taxes and believe that if the valuation of former years was raised anywhere near the true value of property at the present time that their taxes would increase in like manner, and the assessor has been influenced by their attitude." I think that was true. I think I believed it was true.

Q. At the time?

A. At the time.

Q. As a matter of fact, then, you did believe on the 29th day of April, 1914, that the people of Port Angeles up to that time had been afraid of high taxes?

A. Yes, sir.

Q. And that they had up to that time believed that if the valuation of former years was raised to anywhere near the true value of property at that time, namely, April 29, 1914, that their taxes would increase in like manner and that the assessor had up to that time been influenced by their attitude, you believed that, did you?

A. I think so.

Q. And that was true, was it not, at that time?

A. I thought so, at that time.

Q. How did you think at that time that the assessor had been influenced?

A. I did not know.

Q. What effect did that have upon him, these facts you read about?

A. I presume to keep the valuations down.

Q. That is, that your view of it at that time was that these facts presented to the mind of the assessor had influenced him to keep the values in Port Angeles down?

A. Former assessors?

Q. Yes sir.

A. I think so, yes sir.

Q. You thought so then?

A. Yes, sir.

Q. You have since found that it was not true?

A. That what you stated in that way was not true?

Q. You haven't since found that it was not true?

A. That it was not true that the assessor was influenced by public opinion? What do you mean?

Q. That the assessor had been influenced by public opinion to keep the taxes down upon Port Angeles property?

A. I don't think so, now.

Q. You don't think so, now?

A. No.

Q. You have changed your mind since April 29, 1914?

A. Yes, sir.

Q. What has made you change your mind?

A. The assessment of 1914.

Q. The assessment of 1914 made you change your mind?

A. Yes, sir.

Q. How did the assessment of 1914 make you change your mind as to something that had already passed?

A. It had not passed. I had no knowledge of what the assessment of 1914 was on the 28th of April.

Q. You mean they changed the method of assessment, or rather, the basis of assessment in 1914?

A. I did not change it. The assessor changed it, and I had no knowledge of it at the time.

Q. But you did believe at that time, and still believe at this time, that up to the assessment of 1914, the assessor had been influenced by this public opinion that is referred to here?

A. Well, possibly, to a certain extent.

Q. And as you state in the letter?

A. Yes sir.

Q. Now then, you say: "As a matter of fact, nearly all the lots in Port Angeles are now upon the rolls at from ten to twenty per cent of their true value." Is that true, or is it false?

A. It is false.

Q. Was it true at the time you uttered it, or was it false?

A. It was false.

Q. Did you know that it was true at the time you uttered it, on the 29th of April, 1914, or did you know that it was false?

A. I did not believe that that was true.

Q. Then you knew it was false?

A. Yes, sir.

Q. And you further say: "And consequently the tax levy is very high, nearly to the limit in every taxing district." Was that true, or was it false?

A. In the County?

Q. No, you say in Port Angeles.

A. That was true.

Q. That was true?

A. Yes sir.

Q. That the tax levy is very high, and nearly to the limit in every taxing district?

A. In the city.

Q. You mean to imply that your view of the situation was that the tax levy was as high as it could be?

A. Yes, sir.

Q. Then you further say: "Out of town investors are appalled at our high levy, but, if the valuations were raised to somewheres near their true value, and the levy reduced in accordance, I think, am sure, our taxes would not look so high, and would compare very favorably with other towns of like population of Port Angeles"; now then, did you believe that the taxes were below, that the assessments were below their true value?

A. Yes, sir.

Q. You believed that the assessments then, were below their true value?

A. Yes, sir.

Q. In 1913?

A. Yes, sir.

Q. And that if they were raised to anywhere near their true value that the people would be appalled at the levy?

A. If the levy was kept the same.

Q. If the levy was kept the same?

A. Yes, sir, the taxes, certainly.

Q. You believed that however, to be the fact?

A. Yes, sir.

Q. "That the valuations were below their true value", that the assessed valuations then were below their true value?

A. Yes, sir.

Q. What do you conceive to be the true value?

A. Well, more than the assessed valuation; of course, much of the property, a great deal more; much property was a great deal more than its assessed valuation.

Q. Much property was worth a great deal more than its assessed valuation at that time?

A. Yes, sir.

Q. And you have said that the assessments were not as low as from ten to twenty per cent of the true valuation of property in Port Angeles?

A. Yes, sir, I believe so.

Q. Now, if they were not as low as ten to twenty per cent, what were they?

A. I think they were somewhere in the neighborhood of fifty per cent of their value.

Q. You think they were in the neighborhood of fifty per cent of their value?

A. From forty to fifty.

Q. When did you discover that?

A. I felt that all the time. I think I did not tell the truth when I said it was ten to twenty. I was writing that letter for a purpose.

Q. In other words, knowing at the time in your own conscience that the assessed valuation was fifty per cent of what you believed to be the true valuation, you falsely stated that it was but ten to twenty per cent of it?

A. I so stated in that letter.

Q. And you falsely so stated?

A. I so stated.

Q. Was it true, or was it false?

A. It was not true.

Q. Did Mr. Grasty ever give you any memoranda of anything he wanted you to put in the letter?

A. No, sir.

Q. He did not give you any memoranda to hand the assessor to put in the letter?

A. No, sir.

Q. Did you ever go to the assessor and ask him for a letter?

A. I did not.

Q. You said that you would.

A. Yes, sir.

Q. Was he an Elk?

A. No, sir.

Q. He could not get in?

A. He never tried, to my knowledge.

Q. You never went to him, for a letter?

A. I did not.

Q. Why didn't you?

A. Well, I did not feel like doing it. I did not wish to ask him for a letter of that kind.

Q. Why?

A. I did not believe he was sufficiently interested in the Elks Lodge to write a letter of that kind; I did not think he would do it.

Q. If you were asking him for a true statement of matters that he must know of within his official knowledge, there would be no embarrassment in requesting it, would there?

A. I think there would, in that case.

Q. Why?

A. Asking him to write something that pertained to his official knowledge, particularly with relation to his books and rolls that were being made up, might embarrass him. I understood that he had already been asked by Mr. Grasty.

Q. By whom?

A. By Mr. Grasty.

Q. Mr. Grasty told you he asked him?

A. Said he had asked him.

Q. And that he had refused to give it?

A. He did not get it. I do not remember whether he refused.

Q. Mr. Grasty told you when he asked you to get that letter for him, Mr. Grasty told you that Mr. Hallahan had made the same statement with reference to the assessed valuation and the true valuation that you made?

A. I won't say that.

Q. Why did he ask you to get the letter then?

A. Well, he said he wanted a letter of that kind, in order to get Mr. King and others in Portland to loan the money to the lodge.

Q. Did he tell you that Mr. Hallahan had made

such a statement to him but that he wanted the statement in a letter?

A. I don't think so.

Q. Refresh your recollection; don't you know that he did?

A. No.

Q. If he was dictating to you the kind of a letter that he was to get from you how was it that he was first asking you to get from Mr. Hallahan any kind of a letter about the assessment?

A. He wanted the same kind of a letter that he wanted me to write.

Q. And didn't he tell you that he had already talked with Mr. Hallahan and that Mr. Hallahan had given him that same statement but that he wanted it in writing?

A. I do not think so. He told me that he had talked with Mr. Hallahan, and had been in there several times, but that he wanted a letter; that it was necessary for him to have a letter.

Q. And what did he tell you that Mr. Hallahan told him in this talk about this matter that he wanted in the letter?

A. I do not think that he told me. I do not remember that he told me anything about it.

Q. You were on the Board, I think you said, in 1913, as well as 1914?

A. Yes, sir.

Q. On the Board of Equalization?

A. Yes, sir.

Q. What did you assess the property at, what date did you assess the Port Angeles property at in the rolls of 1912?

A. We did not assess the Port Angeles property at all.

Q. What did you equalize it at?

A. We did not have any tax rate.

Q. What did you pretend to equalize it at?

A. To have all the property as near alike, I suppose, regardless of percentage.

Q. What value did you place upon the proper-

ties for the purposes of equalization, fifty per cent of its value, or one hundred per cent of its value?

A. We did not have any occasion to place any valuation.

Q. You did not guage with reference to its actual value or fifty per cent of its value?

A. Only in comparison.

Q. Comparison with what?

A. Other property.

Q. Just other property?

A. Yes, sir.

Q. Then the Board of Equalization, in passing upon the roll of 1912, paid no attention to the assessed value of property in Port Angeles as to whether it was put down by the assessor at half its value or at one hundred per cent of its value?

A. No, sir.

MR. FROST: We object to this question for the reason that the Statutes of the State of Washington expressly provide that the County Board of Equalization shall have no power to either raise or lower the aggregate assessed value of property within the county and limits them to the sole duty of Equalizing the property as between individual property owners.

THE COURT: He may answer the question. Objection overruled.

MR. FROST: Note an exception.

THE COURT: Exception allowed.

A. That it what I said.

Q. (The Court) That is what you mean to say on what Mr. Frost said?

A. Words to that effect.

Q. Read the question. (Question read).

MR. PETERS: I think the answer to my question previous to that would be an answer to this question.

Q. Will you answer this question?

A. Yes, sir.

Q. Answer it then.

A. We did not.

Q. You did not what?

A. I simply say "no."

Q. That doesn't answer the question. Did you consider the property as assessed on the roll of 1912 when it was before you for equalization as on the basis of fifty per cent of its actual or market value, or as assessed at one hundred per cent of its market, or actual value?

A. Neither one.

Q. Neither one?

A. No, sir.

Q. You paid no attention to that standard?

A. No, sir.

Q. Is that true of the equalization of the rolls of 1914?

A. I think so.

Q. The same thing?

A. I think that held good during all of my official connection with the Board of Equalization.

Q. I refer you to your answer to section 13, with reference to paragraph 13 of said amended bill: "The defendants deny the practice of assessors and taxing Boards, of the custom therein referred to and deny the pursuit of such custom by County Assessors and its recognition and acquiescence by the State Board of Equalization." I will read you the custom that we have alleged there and to which you referred, the custom which was this; "It is, and has been during all the time in this bill alleged, the custom practiced throughout the State of Washington by Assessors and taxing Boards as assess property at less than its actual and full value, the custom being in the large part of the Counties in the State to assess said property at from thirty-five to fifty per cent of its true value." Do you mean to say in your answer there that it was not the custom of the Counties throughout the state of Washington to assess property at less than its actual and full value?

A. Do I mean to say that it was not the custom of Counties throughout the state of Washington to assess at less than its full value?

Q. Yes, sir.

A. I do not.

Q. What do you mean to say then?

A. I do not mean to say anything.

Q. I want you to say something, was it the custom of the counties throughout the state of Washington to assess properties for taxation at less than its fair value, or at its full value?

A. My opinion is that it was.

Q. Was what?

A. Was the custom of the county assessors throughout the State of Washington to assess the property at less than its full value.

Q. What was the custom of counties through the State of Washington to assess, at what proportion of its value?

A. I would have to refer to the reports of the State Board of tax commissioners.

Q. What is your best judgment?

A. The Counties range, I think from about thirty-seven to sixty per cent. It varied in different counties and in different years.

Q. What was the custom in Clallam County?

A. If my memory is correct I think we got a rating from the State Tax Board of fifty-seven per cent.

Q. That is, that you were accustomed to assess property in Clallam County at fifty-seven per cent of its value?

MR. FROST: Fifty-two.

A. I was not sure. I stated that as figures——

MR. FROST: I think you set that up in your complaint as fifty-two per cent, but they denied it.

MR. PETERS: Q. Then it was the custom of Clallam County for 1912, and prior, to assess property at fifty-two per cent of its value?

A. Are you asking for my opinion, or the opinion of the State Board of Tax Commissioners as found from a comparison of the assessments from the different assessors of the State of Washington?

Q. I am asking from your knowledge from any source as to what was the custom in Clallam County?

A. That is pretty hard to say; I can't say what was the custom.

Q. You can't say then?

A. No.

Q. I will continue this paragraph 13 of the answer: "and deny the pursuit of such custom by County Assessors and its recognition and deny that the assessor of Clallam County gives out and pretends that for the year 1913 he assessed taxable property within Clallam County upon the basis of fifty per cent of its true and fair value in money or upon any other or different basis than that provided by the laws of the State of Washington at the time that the assessment for the years 1912 and 1913 were made." Now, then, what did you mean by that answer; what did you mean to say, that it was given out by the County Assessor to be the custom of Clallam County with respect to the rate at which property was assessed?

A. I did not make that answer.

Q. What is that?

A. I did not make that answer.

Q. You swore to it?

A. I swore to that answer?

Q. Yes, sir; at least, I presume so; you are one of the defendants?

MR. EWING: The answer under oath was expressly waived in the bill, and he did not.

Q. (Mr. Peters) "Clifford L. Babcock," is that his name?

MR. EWING: Yes, sir.

MR. PETERS: Then somebody else must have forged his name.

Q. Assuming that that is your name appended to that, was that true, or not; was it true or not true?

A. My signature true, or not true?

Q. Did you sign it?

A. I would have to see it.

Q. What was the custom as announced or followed by the Assessor of Clallam County with reference to the rate at which property was assessed in 1912?

MR. EWING: This is not the assessor. We object to that. He does not know.

THE COURT: The objection is overruled.

MR. EWING: Note an exception.

THE COURT: Exception allowed. He may know.

Q. (Mr. Peters) Do you know?

A. I do not.

Q. You don't know at what rate the assessor intended, or purported to assess property in 1912?

A. No, I do not.

Q. And you did not know at the time you equalized the taxes in 1912, or 1914?

A. No, sir.

Q. Was there any discussion before the Board as to the rate adopted, or the rate that should be adopted?

A. No, sir.

Q. Was there any discussion before the Board as to the rate that the Assessor had adopted, or should adopt?

A. No, sir.

Q. Now, you say here in this answer that the basis that you did adopt was that provided by the Laws of the State of Washington at the time the assessment for the year 1912 and 1913 were made; in your official capacity you were bound to know and to carry out the laws, of course. What did the law provide in respect to the manner of assessment at that time?

A. Prior to 1914?

Q. Yes, sir.

A. It provided that it should be assessed at its full and fair value.

Q. What?

A. The law provided that it should be assessed at its full and fair value.

Q. And you intended to assess it at its full and fair value?

A. I did not have anything to do with the fair value.

Q. Did you intend to equalize the property as assessed at its full and fair value?

A. I did not.

Q. Why?

A. How could the Board of Equalization raise it, providing the assessment was too low?

Q. I am asking you whether it was your understanding at the time the rolls were before you as one of the Board to equalize that the assessment had been made on the basis of one hundred per cent of the value of the property or made on the basis of fifty per cent or any other per cent of its value?

MR. EWING: The Board of Equalization does not fix the rate. They equalize, is all.

THE COURT: He is asking what his understanding was of what rate was assessed.

WITNESS: I can answer that.

Q. (Mr. Peters) Answer it.

A. No, I did not.

Q. You did not know?

A. No, sir; that question never came up before the Board of Equalization.

Q. You say here, you admit that the interior timber lands in said County, including the lands owned by the plaintiffs, were, and are, valued in the year 1913 for the purpose of taxation at sums in excess of fifty-three per cent of the true and fair value thereof in money," is that true?

MR. RIDDELL: Mr. Babcock did not make that answer.

MR. PETERS: He signed it and did not object to it.

MR. RIDDELL: Mr. Ewing signed it.

Q. (Mr. Peters) Is that true?

WITNESS: Please read the question.

Q. "Admit that the interior timber lands in said County, including the lands owned by plaintiffs were, and are, valued in the year 1913 for the purpose of taxation at sums in excess of fifty-three per cent of the true and fair value thereof in money"?

A. I think that is true.

Q. Then at what rate were they valued?

A. I do not know.

Q. How do you know that they were valued at fifty-three per cent when you made that answer, when you say you don't know at what rate?

A. I said I think they were more than fifty-three per cent.

Q. At what per cent do you think they were valued?

A. I do not know.

Q. What per cent did you have in mind when you took up our bill of complaint, when you say, "We charge, you assessed us more than fifty-three per cent," what did you have in mind,—you didn't assess at that,—when you say you didn't assess at more than fifty-three per cent?

A. I don't know that.

Q. Did you have anything in your mind?

A. Nothing in regard to that.

Q. You answered it absolutely reckless?

A. No, sir, I did not answer that.

Q. This is not your answer then?

A. I did not make any answer to that.

Q. You made no answer here?

A. No, sir.

Q. You don't claim any answer here?

A. No, sir.

Q. Personally?

A. No, sir.

MR. PETERS: Then we ask judgment against this defendant at this time and insist on that.

THE COURT: It is denied. It is apparent that the witness is one of the defendants, that the law is that it should be the true value. He might very well sign an answer that it was assessed at more than fifty-two per cent, and he would think it was on his side.

Q. Did you think at the time you signed this answer that the assessor was bound to assess property at one hundred per cent of its true value and therefore you assumed that it had been assessed at one hundred per cent of its true value?

A. I knew what the law was in relation to making assessments.

Q. What did you understand the law to be?

A. I stated before.

Q. That it should be assessed at one hundred per cent?

A. It should be assessed at its full value.

Q. And you assumed at the time you equalized that property, or sat on the Board to equalize it that the property had all been assessed on the basis of one hundred per cent of its value?

A. I do not know that I did.

Q. And you do not know that you didn't?

A. Not very well. We did not have anything to do with the percentage there.

Q. You just then adopted the assessment roll?

A. We compared property.

Q. With what?

A. With other property.

Q. What property did you compare?

A. We went over the assessment roll personal and real.

Q. You went over the assessment roll personal and real?

A. Yes, sir.

Q. When you went over the assessment roll what did you do, just take any piece of property and tell what you did about that?

A. I don't remember.

Q. Suppose you take lot 13 in block 19—I don't know—only consists of Smith's Addition,—and you found it in the book assessed at a certain value, what did you do about it?

A. We looked to see how surrounding property was assessed; if it was assessed at an equal value in our opinion we left it alone.

Q. If that particular lot 13, block 19 had been assessed at fifty thousand dollars, or had been assessed at five thousand dollars, so long as the next block to it, or the block in its neighborhood was assessed at

the same proportionate value you paid no attention to it?

A. If, in my opinion, the surroundings, and my knowledge—I have lived in the town a good many years, and knew something personally about the values of land and lots, and property, and I used that to base my judgment on.

Q. Then you did base your judgment in equalizing that roll on the actual value of land proportionate to the assessment?

A. Compared to other property.

Q. To other lands?

A. Yes, sir, to other lands.

Q. Did you make any comparison between the value put upon it by the assessor and in your judgment the actual value of it?

A. No, sir.

Q. You did not?

A. No; only as it was compared with other lots and other similar property."

The Board of Equalization made no substantial changes in the roll as handed it by the assessor, or the roll of 1914. They made no changes respecting the timber lands of the plaintiff in either roll.

Q. Now you stated, Mr. Babcock, that you always had maintained that timber property in an isolated tract in small area timber property ought not to be assessed as high as it was the custom of the assessor of Clallam County to put it.

A. I do not think I made that statement.

Q. Then what statement substantially did you make along that line?

A. That it should not be assessed as high as larger bodies of timber lands; timber sufficient to constitute a logging proposition.

Q. So that if a man had one hundred and sixty acres in your judgment it ought not to be assessed as high proportionately as one who had sixteen hundred acres, is that it?

A. Practically so, yes, sir.

Q. For what reason?

A. For the reason I have stated, that one cannot be logged without the other, that the large tract of timber can be made a profitable logging proposition, and a man that had one hundred and sixty acres down in the West end of this County and that one is unable to do anything with his timber, to market it or sell it or do anything with it at all. He is tied up and hemmed in by speculators and large timber owners, and he cannot get out and some of them with an acre or two of land cleared trying to make a living cannot raise a sufficient amount of produce on one of these little clearings to pay his taxes, when it is assessed at the same value of the large timber owners.

Q. Suppose one of the large timber owners stationed some fellow to make a living on that land who had one hundred and sixty acres down there where these plaintiffs have their land instead of forty-one thousand acres that they have, what would you say should be the rate of taxation on that timber land as compared with the taxation on the forty-one thousand acres?

A. I think it would be entitled to the same consideration.

Q. What consideration?

A. That it should be lower.

Q. What rate, for instance?

MR. EWING: That is objected to, the proof already in shows that there was no discrimination.

THE COURT: The objection is sustained. It is not a matter of rate, it is a matter of valuation. The record shows that the valuation was uniform on both the large and small holdings.

Q. What did the other Commissioners answer to you when you made that argument?

MR. EWING: I object to that as being incompetent, immaterial and irrelevant.

THE COURT: This is a matter of fraud; anything that was said would be competent.

MR. EWING: On that phase of it we withdraw the objection.

Q. (Mr. Peters) That is the only phase I put it on; what did they say to you?

A. They thought it was impossible to make the discrimination, and that it all ought to be assessed alike, and we could not discriminate between the small holder with the isolated tract and the large tract. If I may go a little bit further in explanation of this matter, I will say that we took it up with the State Board of Tax Commissioners and we got a reply from the State Board in which they bore out my contention, and held that an isolated tract was not as valuable and could be placed at a lower valuation for assessment purposes than the large tracts, but in the face of the opinion of the Prosecuting Attorney of Clallam County, and that opinion was asked by the Board of Equalization, the Board decided that it would have to all be assessed alike.

Q. This answer to you, or the advice of the State Board of Tax Commissioners, was submitted to the Board?

A. Yes, sir.

Q. In support of your argument?

A. Yes, sir.

Q. And in spite of that they made no change, after consulting the Prosecuting Attorney?

A. They made no change after consulting the Prosecuting Attorney.

“Q. Now you say on Page 8 of your answer, towards the end of paragraph 14: “Deny that said assessment for the year 1913 was made upon the basis of 83½%, or upon any other, or different basis than the true and fair value in money of all the property assessed”. Then it was your understanding after all that it was assessed at its full, true and fair value, wasn't it?

A. My understanding that the property was assessed, no sir, never.

Q. Then why did you put it in here that “you deny that it was assessed at 83½%, “the timber lands,” or, “upon any other or different basis than the true and fair value in money of all the property assessed.”

In other words, you said here, as I read it, that our property was not assessed at 83½%, but was assessed like all other property in Clallam County, at its full value, was that what you intended to say?

A. I think that it was all assessed alike. I do not know what the percentage was it was assessed at I do not know now, and never did know.

Q. And never did take that into consideration with the Board of Equalization?

A. No sir.

Q. And the Board did not take that into consideration?

A. Not to my knowledge.

Q. Again, In Section 18 of your answer you say: "Deny that the land and other properties situated at Port Angeles, and subject to taxation, and available upon the assessment roll, is equalized for such years, at not to exceed ten to twenty per cent of their true and fair valuation in money." Could you state then what you had in mind at that time as the rate at which they were assessed.

MR. EWING: I object to that because it is manifestly unfair.

THE COURT: The objection is sustained.

MR. PETERS: Note an exception.

THE COURT: Exception allowed.

MR. EWING: I think an explanation is proper at this point. These bills were objected to on a motion to dismiss, and, if I do say it myself, they are not properly drawn. They contain a lot of improper and irrelevant matter, and that was gone into before Judge Neterer, and he admitted that same thing, but he compelled us to answer categorically every one of these statements on a motion that they made to make more definite and certain. The bills are awkwardly drawn, and the answers are awkwardly drawn. It is because of the fact that the court required us to answer specifically the allegations of the bill. It is manifestly unfair to put a witness on the stand and question him as to why these answers are drawn, particularly in the case that has been called to Your Honors

attention. They say,—they leave a range for the answer of the difference between, ten, twenty, or one hundred per cent. We are not required to select any per cent on what the valuation was made at, or what the equalization was made at. The question is unfair.

MR. PETERS: When the bills were drawn they were attacked by the defense, in the only manner in which they can be, under the modern rules of equity by bill to dismiss, which was a demurrer. They went over it, and Judge Neterer went over them with a fine-tooth comb, and he sustained those bills, and these people were required to answer, and they came in and answered in the same manner that they would in the State Court to a Bill of Complaint, and we submitted to Judge Neterer that in a Court of Equity, the defendant was put upon his conscience, that in answering the bill he was in the situation practically as the witness upon the stand, and must answer categorically; that he is put upon his conscience; and Judge Neterer so held, and he defined the character of the answer, and he required them to go back and answer in full, and they did go back and answer in full. Is it possible that I can't attack those answers? That is the very reason of a suit in equity in a Federal Court.

THE COURT: You can attack those answers. But this witness has answered a number of times that he did not consider, and did not know about any percentage of the values used by the assessor, and he has not been qualified in anywise as a witness to express an opinion on the values; so I sustain the objection.

MR. PETERS: Note an exception.

THE COURT: Exception allowed.

MR. PETERS: We are charged with unfairness in representing the case. I wanted to answer that."

Upon further cross examination the witness states that he thinks the assessment on timber lands was raised in 1914 some fourteen per cent. above the assessment of 1912; that he wouldn't be sure about the figures exactly but the assessment was raised a little.

On re-direct examination witness admits that the assessment on Port Angeles property in 1914 was just double that of 1912.

(Witness excused.)

JOHN HALLAHAN, a witness sworn on behalf of the defendants, testified as follows:

DIRECT EXAMINATION.

Has resided in Port Angeles for about twenty-five years. Held the office of City Councilman for about ten years; was Deputy County Assessor from 1909 to 1910, and County Assessor during the years 1911 to 1914, inclusive. He is a democrat. He knows Mr. Hansen, Mr. Babcock, Mr. Lotzgesell and Mr. Erickson. They all made their political campaign alone. They are all republicans. Witness had no working agreement with them.

Witness is asked—

Q. Do you have any knowledge or have you ever heard, of any conspiracy, confederation, understanding, or agreement, concerted action of any kind between the assessing and equalizing officers of Clallam County themselves, or between them and any other person to discriminate against Ruddock and McCarty and the Clallam Lumber Company, or any other timber owners in Clallam County or in favor of any persons or corporations in the matter of the assessment and equalization of taxes of Clallam County for the years 1912, 1913, and 1914?

A. In speaking for myself I would say without equivocation that there was no understanding, no collusion, nothing of that kind, between myself and the other members of the Board of equalization. We were absolutely apart in making my assessment.

Q. Did you ever hear of any such combination as I have referred to in the previous question among any of the other officers?

A. I have never heard of any. If there was, they would show at the Board of Equalization meetings.

Q. You think from your position and residence

in that County the knowledge of such combination would come to you, if any existed?

A. I would be very apt to hear about it.

Q. Do you believe that any such combination or conspiracy ever existed?

MR. PETERS: I object to that.

THE COURT: Objection sustained. Exception allowed.

Q. You heard a part of Mr. Grasty's testimony, did you?

A. Yes, sir.

Q. And you afterwards read over a transcript of it?

A. Yes, sir.

Q. Reverting to the previous question, I ask you to state whether or not from any facts within your knowledge you can state that any such conspiracy as that that I alluded to did exist?

A. There was no such conspiracy that I know of, heard of, or believe to exist.

Q. With reference to the testimony of Mr. Grasty, you have read a transcript of his testimony?

A. Yes, sir.

Q. State now, in your own way the experience that you had with Mr. Grasty and what passed between you, the conversations, the object that he had in his conversations with you and all about it.

A. It would be very hard for me at this time to remember everything that was said between myself and Mr. Grasty at the time he mentioned. I was busy at the time.

Q. Where was that?

A. That was in Port Angeles, at my office.

Q. Go ahead.

A. I can't remember the date nor the month that he paid the visit to my office in the forenoon. He handed me his business card and told me that he represented capitalists in Portland, Oregon, and had come down to Port Angeles with the intention and expectation of loaning money to the Elk's Lodge, some forty thousand dollars, to erect a building. He talked along

a little while, and said further, that there appeared to be a vast difference between the assessed value of the property which belonged to the Elk's Lodge and the value placed thereon by the committee of the Lodge.

THE COURT: By whom?

A. The Lodge Committee. I believe he had an appraisal made by that committee, what purported to be an appraisal made by the committee, in his possession; I don't remember, but I believe he had; and he also, either at that time or at a subsequent time, had an appraisal made by Mr. Lutz, the cashier of the Clallam County Bank, and, I believe, Mr. Christensen, of the Citizens National Bank, at that time, which showed a lower appraisal of the same property.

Q. A lower appraisal?

A. A lower appraisal than that placed thereon by the Elks' Committee. On the same property the bankers placed a lower appraisal. Mr. Grasty seemed to be very enthusiastic about the placing of this loan, and discussed the assessments with me. He inferred that the assessments were very low as compared with the appraisal and that it would be very hard for him to explain to his people down in Portland the difference which appeared to exist, and suggested that I write a letter explaining the situation and send it to Portland, Oregon, to his address. He did not want the letter there at all, although he said, in his testimony the other day, that I promised to hand it to him in the afternoon. He did not want the letter; he wanted it sent to Portland to his own address.

Q. Did he say that to you?

A. Sure, he said that to me. That made me suspicious then. I says, "What kind of a concern do you represent that they have not your confidence?" I says, "You could not work for me but a short time if I had only that much confidence in you." And I got suspicious of the fellow right away. He stumbled around the office all forenoon until pretty near noon-time, and he got in my way until he became a nuisance around there. We went to the books on the desk, and he looked at the assessment for 1912. The 1914—I

did not place here,—It was in April, I presume, when he was in the office; but I had not commenced to place the assessment of the City of Port Angeles for the year 1914, and, consequently, did not tell him what that assessment would be; because I had not the figures finally placed myself. He stumbled around the office until about noon time, then he invited me to dinner, which invitation I refused. I got suspicious of the fellow, and I thought he was too nice to me and too good to me for my own good. He was all smiles and very bland around there; and at the noon hour I went down on the principal street, the corner of Laurel and Front Street, and I met Mr. Fisher, who he has referred to in his testimony, Frank Fisher. He is Deputy Collector of Customs down there. I knew Mr. Fisher was an Elk, and I told Mr. Fisher what this gentleman was saying to me in the office,—I told him about him asking me for a letter, and just about that particular minute he seemed to be watching us, and around he come and butted into us again.

Q. What do you mean; who was it that butted into you?

A. This gentleman down here with the gray suit on that gave testimony here.

Q. Mr. Grasty?

A. Mr. Grasty, yes, sir; that is the name of the man who butted into us again, and Mr. Fisher says, "Hallahan can't give you any such letter". And then finally he passed on, after interferring with our conversation for some time, he passed along, and Mr. Fisher told me, he says, "Jack,—they call me "Jack" down there a lot,—he says, "Jack, that fellow is no good; we have investigated him and he is no good; don't bother with him no more." Mr. Fisher told me right there. I did not bother with him any more. I believe that he did come up that afternoon, or the following day at the office again and bothered me some more about this letter, and he did not get no letter at no time, nor did I promise to give him a letter at any time. So, a week or two elapsed, and I, at least, had forgotten all about him, and I went down to dinner—

I believe it must have been two or three weeks afterwards—and instead of turning to the West to where I usually eat luncheon, I turned to the East. I can't account for the fact now, and there was a high concrete wall erected at that time as a bulkhead in the grading district, and Mr. Grasty was standing in the sunshine with another fellow, as I went up he rushed right out and grabbed me by the hand and he says, "Hello, Mr. Hallahan, I am glad to meet you", smiling all over his face, and he introduced Mr. King to me as being the son of one of the financiers in Portland, Oregon. Mr. King did not impress me as being a financier at the present time. He was not very well dressed, and as far as outward appearances went, would not be a very good looking financial agent. He invited me to dinner again. I believe this was the third time he invited me to dinner. He was bound to have me to dinner, and I had learned by this time from what I had heard that the fellow was no good,,—and I went along with him to dinner. He grabbed hold of me and I went along and talked about commonplace things during the noon hour, and we came back on the street again, and he would all the time inject this loaning of money to the Elks Lodge. He tried to inject that into the subject of our conversation all the time, and would mention occasionally about the low assessment and the high appraisal put on there by the committee, and that letter, that was his story all the time. I believe, in the afternoon that he did go back up to the office again to discuss matters further with Mr. King, and that is about the end of the Grasty proposition, so far as I can remember.

Q. Who was in the office when Mr. Grasty first came in?

A. There was myself, Miss. Barr, one of the clerks, and Ray Haynes, another clerk.

Q. Who is Miss Barr?

A. The lady is present in the room now.

Q. This lady sitting back there in the audience?

A. Yes, sir.

Q. What was her position in the office?

A. She was a clerk.

Q. Was she a deputy?

A. No, sir. She was simply a clerk. I had no deputies in that office. They were all clerks.

Q. Now, in the conversations that were had between you and Mr. Grasty who led the conversation?

A. Why, he led the conversation.

Q. Who directed the channels into which they should flow?

A. He directed them all the time.

Q. What channels did the conversations always follow?

A. It followed the subject matter of the loan of forty thousand dollars to the Elks to erect a building.

Q. And what else?

A. And in the course of his remarks, I do not remember now—I believe it was in the office that he told me—“Now, he says, “Down around Days they are telling around there that young Morse, that young kid, they are making a damn fool out of him. They are making him believe that his lot up here is worth twenty thousand dollars, and he wants for me to put up a building there, that much”. He said, “The lot is not worth anything like that money”. He said, “Our people would not consider for a moment loaning anything like that money, or half that amount of money on it, and they are making a fool of that kid around the hotel.”

Q. Who brought that Morse kid into the conversation?

A. He did.

Q. Did you make reference to it?

A. No, sir.

Q. In continually referring to the letter, what suggestion, if anything, did he make as to what the letter should contain that he wanted you to give him?

A. He wanted me to write a letter down to Portland to his address stating that the assessment was low and that the appraisal by the committee was nearer right, something to that effect, I believe he wanted me to say that.

Q. What did you say to him in reply to his suggestion as to making statements of that sort in a letter?

A. I told him he could not get any such letter from me; he could not, or anybody else.

Q. Did you give him any reason?

A. Any reason.

Q. Did you give him any reason why he could not get such a letter from you?

A. I would like to answer that question in another way before I answer it directly.

Q. All right, go ahead.

A. During my term as county assessor, in Clallam County, almost every day I would receive letters from the outside, people that lived away from there and hold property, they would very often write to the County Assessor for information as to the value of that property, and some person that would want to buy would make them a very low offer and they would very often want to find out the real market value of the property. That question I determined it was not very well for me to answer in the affirmative; so I always pointed out the assessed value. There were some real estate people had been down in Port Angeles and maybe there are a few living there yet that would be unscrupulous and would endeavor to sell a person a wild cat lot at a very high price, and I did not feel that it was my position as County Assessor to be advising everybody about the market value of that wild cat stuff.

Q. (Mr. Frost) The question was, what did you say to Mr. Grasty when he made the request that you supply him with this letter?

A. I told him I would not give any such letter; that the people in Portland had very little confidence in him to require him to send in any such letter down there.

Q. What if anything, did you say concerning your assessment to him?

A. I told him nothing about the assessment. The 1912 book was open on the desk. The 1914 assess-

ment which was to be made on the first of March was not yet made.

Q. (Mr. Ewing) What, if anything, did you say to him about the ratio between the assessed value and the real value of property in Port Angeles?

A. I did not tell him anything about the ratio; I did not tell him anything of the kind.

Q. What, if any, statement did you make to him in the course of your conversation with him about the assessment of timber lands?

A. I do not remember any conversation with him about timber lands.

Q. The conversations with you related principally to the valuations of Port Angeles property?

A. In a general way, or otherwise?

Q. What I want to get at——

A. That is what the general subject of conversation was, the assessed valuations of property in Port Angeles; especially the lots belonging to the Elks and the Morse lot, were the lots especially mentioned.

Q. What, if anything, did Mr. Grasty say to you about the assessment of timber lands in the Western part of the County?

A. I do not remember that he said anything; if he did it has escaped my memory.

CROSS EXAMINATION.

BY MR. PETERS:

Q. Mr. Hallahan, I understand that you say that you soon become suspicious of this man Grasty?

A. I certainly did.

Q. How soon?

A. Very soon after he asked me for a letter and he did not want the letter either; he wanted it to be sent to Portland, Oregon, to his address.

Q. What made you suspicious about his wanting a letter, being sent to Portland instead of handing it to him?

A. It did not look very good to me, nor would it to you, I would not think.

Q. What was suspicious about it being sent away, rather than handing it to him?

A. It would arouse anybody's suspicion, sending it through the mails, rather than taking it in his pocket and taking chances. It might get lost in the mail. I would be sure. I would rather take it then. He wanted it through the mails. It might get lost.

Q. What did you fear; what were you suspicious of?

A. I did not fear anything.

Q. What occasioned your suspicion?

A. I was suspicious that the fellow was no account, that he was wasting my time, and that I was dealing with a person that did not amount to anything. I had certain work to do in my office, and the time could not be wasted with people that did not have any business there.

Q. But you were suspicious of the fact that he was butting in on your time?

A. I was suspicious that he was butting in on my time and he did not represent anything that was substantial.

Q. I understand that you are not an Elk or connected with that concern at all?

A. No sir, I am not.

Q. You don't know anything about the negotiations between the Elks Committee and him?

A. No, sir, I do not; at that time I did not.

Q. You did not know anything about it at all?

A. No, sir, at first I did not.

Q. He told you he was talking about a loan of forty thousand dollars to the Elks, didn't he?

A. Yes, sir.

Q. And he told you that he had received an appraisal of the property by the Elks committee and also an appraisal of the property by Mr. Lutz and Mr. Christensen, and that those differed, that Mr. Lutz and Mr. Christensen put the property at much less valuation than the Elks people, didn't he?

A. I believe he did.

Q. What is the truth?

A. They seemed a little less.

Q. Do you recollect the comparative statements at that time?

A. No, sir, I do not.

Q. You don't remember?

A. No, I don't remember.

Q. Mr. Lutz and Mr. Christensen were reputable citizens of Port Angeles that you knew, weren't they?

A. Yes.

Q. It did not excite your suspicion then that the man should come to you as assessor of Clallam County, and an old resident of Port Angelse where two persons like that, a committee and two reputable citizens differed about the value, did it?

A. Repeat that question again.

Q. It did not excite your suspicion that a man who was backing a loan of forty thousand dollars should come to you for information when two parties like the committee of the Elks and those two reputable citizens differed about the value of the property?

A. They could have been imposed upon just as well as I. They weren't immune.

Q. Didn't it seem to you at that time quite natural that he should come to you and ask you something about the values.

A. It sounded kind of funny to me that he did not come to me in the first place instead of going to the Elks. He could have done that too.

Q. What he stated to you at that time was that he was desiring to find out the real value of this property and he had those two different statements about it and he wanted to know what the assessed value was, didn't he?

A. The books were on the counter for him to look at.

Q. Did he ask you what the assessed value of the property was?

A. He probably did; I am not sure about that.

Q. You remember of those other things so well, why don't you remember about that?

A. I am not sure that he did; it is possible that he did.

Q. As a matter of fact, didn't he?

A. I would not say that he did; I absolutely would not say so; but I have a presumption that he probably did.

Q. And you looked it up?

A. I probably did.

Q. And you told him?

A. I told him what the 1912 assessment was.

Q. What was it?

A. Which?

Q. The 1912 assessment?

A. On that particular property?

Q. Yes, sir.

A. It is entirely different from the amount that he has testified to the other day.

Q. You said you looked it up; what was it?

A. Describe the property and I will tell you. I do not know what the Elks property was.

Q. You said you looked it up for him for 1912, and then told him; what did you tell him?

A. If I told him at all—I am not positive I told him at all—but if I did tell him I told him the figures that were on the books.

Q. What were the figures on the books?

MR. EWING: This is improper examination. This is a memory test. It is not proper. One man may have a good memory and another one a poor one.

Q. (Mr. Peters) Do you know what the Elks property was?

A. I think I remember it.

Q. What was the assessed valuation as stated on the books?

THE COURT: The objection is overruled.

MR. EWING: Note an exception.

THE COURT: Exception allowed.

A. The Elks property for 1911 and '12, they owned lot 1, block 2, Norman R. Smith's sub-division, which was at that time assessed for three hundred and fifty dollars.

Q. It was assessed for three hundred and fifty dollars?

A. Yes, sir, if my recollection is right.

Q. What was the other assessed at?

A. They also owned lots 15, 16 and 17 and 18 in block 16 of the same addition.

Q. What were those assessed at?

A. Lots 15, 16 and 17 were assessed at six hundred and fifty dollars each, and lot 18 was assessed at seven hundred and fifty dollars.

Q. The three lots were assessed at six hundred and fifty dollars each, and the first lot was assessed at three hundred dollars?

A. The first lot was assessed at three hundred and fifty dollars.

Q. And this other lot was assessed at seven hundred and fifty dollars?

A. The other lot was assessed at seven hundred and fifty dollars, and that constituted all the Elks property, insofar as I know and can remember now.

Q. Was that the property that he was to make the loan on?

A. I think so.

Q. What did Mr. Lutz and Mr. Christensen appraise them at?

A. I don't remember.

Q. Didn't he show you?

A. I think he did.

Q. How did you remember what they were assessed at if you don't remember what those people had them appraised at?

A. I refreshed my mind on the assessment lately, since I heard the gentleman on the stand.

Q. What had the Elks committee appraised them at?

A. I don't remember.

Q. Was there a very great difference between the assessment of the Elks—or the appraisal of the Elks and their assessed valuation?

A. Was there a difference?

Q. Wasn't there a very great difference?

A. I believe there was considerable difference.

Q. What proportion of the value appraised by

the Elks committee was the assessment as appeared on the books for 1912?

A. I have said I don't remember the appraisal put on there by the Elks committee; consequently I could not tell you the percentage of difference.

Q. Could you tell us somewhat about the relative difference?

A. No, I would not attempt to.

Q. The difference was so great that it occasioned this inquiry on Mr. Grasty's part, didn't it?

A. What?

Q. The difference was so great that it occasioned this inquiry on Mr. Grasty's part, didn't it? The difference between the two was so great that it occasioned the inquiry on Mr. Grasty's part?

A. It seems that he had another object in view in getting that.

Q. That is the way it appears now from your view of it, but at that time the matter in question was that the disparity between the appraised value and the assessed value was very great, wasn't it?

A. It seemed that way, yes.

Q. Wasn't that it?

A. What was?

Q. Wasn't that the ground on which he asked you for the letter?

A. I presume it was some of the ground, and I presume——

Q. The very ground on which he asked you for that letter was the statement at that time, whether it was true or not, was the statement to you that he was going to submit this letter to his Portland clients, and he wanted you to explain this great difference between the assessed value of that property and the value it was appraised at by both these gentlemen, is that not a fact?

A. I presume, something like that; I am not sure.

Q. Don't you know it was?

A. I am not positive about it.

Q. What was the other ground?

A. He did not leave such an impression upon me as you might imagine.

Q. He did not?

A. No, sir, he did not.

Q. Then what was it that made you suspicious?

A. His very statement made me suspicious.

Q. What statement?

A. His statement about the letter.

Q. What letter?

A. About his receiving any kind of a letter and mailing it to Portland, any kind of a letter of that kind to a business person looks suspicious. Had he been a business man he would not have wasted the time he did in my office; he would have done his business and went on and let me do mine.

Q. As assessor of Clallam County haven't you had many inquiries from people out of town about the valuation of property and the assessed value of property?

A. Yes, by letter.

Q. Did you grow suspicious of them every time they asked you that?

A. Not always.

Q. But generally that was an occasion for suspicion with you?

A. He raised the suspicion himself.

Q. I am asking you about these other people that wrote to you from out of town for the assessed value of property, did that always arouse your suspicion?

A. Not always, no.

Q. It generally did, didn't it?

A. I can read a letter pretty thoroughly; I can read it even between the lines. I think I can read it between the lines, if necessary.

Q. What was suspicious about this man who pretended to be making a loan of Forty thousand dollars and wanted to find the difference between the assessed value and the real value?

A. What was his purpose?

Q. What was the occasion of the suspicion?

A. What was the occasion of my suspicion?

Q. Yes, sir.

A. Didn't I answer that already?

Q. I did not understand that you did; what I want to get at is, what made you suspicious?

A. I told you the reason I got suspicious was because he wanted this letter to his people in Portland that he was working in their behalf. He told me like this: I asked him, "why do you want this letter", and he says, "The reason I want this letter is this: the difference appears to be so much between the assessed value of this property and the value placed thereon by this committee that should I go back there to Portland, Oregon, and tell my people who are to loan this money, they would grow suspicious of me, and think I was standing in with the Elks people, but a letter from you would clear the whole proposition up."

Q. Exactly. Now, nobody knows anything about that, but you told him that you would not give him such a letter?

A. I did.

Q. Why did you tell him that it was not a fact that the assessed value differed so much from the real value?

A. I told him he should not receive any such letter from me.

Q. Did you tell him that it was not a fact that the assessed value differed so much from the real value?

A. I did not know what the real value of their property was at that time; why should I answer such a question in such a way. I did not know what the real value of that property was.

Q. He showed you the appraisal of Mr. Lutz and Mr. Christensen?

A. That was the appraisal of them and every man is entitled to his opinion; it was their opinion of the value of that property. They were entitled to their opinions.

Q. At that time in your judgment how did the valuation fixed by the committee and by Mr. Lutz and

by Mr. Christensen compare with your judgment of the real value?

A. I did not exercise my judgment up until that time in May, 1914, at the time of the assessment.

Q. I am not talking about the assessment; I am talking about this interview that you had with this man Grasty, at the time he came in there and showed you those appraisals and you looked at the assessment list and saw the assessment and gave it to him for 1912, and then he says, "Here, Mr. Hallahan, there is such a great difference between these two that I want an explanation of the matter to these fellows in Portland, and I want a letter for that purpose," did you tell him that there was any such difference between the assessed value, that there was no such difference between the assessed value?

A. Did I tell him that?

Q. Yes, sir.

A. There may have been a difference between the assessed value and the real value, at that particular time, because he was looking at the 1912 assessment, and this was the year of 1914.

Q. Was there a great difference, and what was the difference between the assessed value of 1914 and this appraisal of this committee?

A. I do not remember the figures of the appraisal committee. I do not remember those figures.

Q. Now how many interviews did you have with him in your office?

A. I believe he was there on two occasions, or probably three.

Q. On three occasions?

A. Probably; I am not quite sure.

Q. You heard the statement that you went out to lunch with him?

A. I believe there was such a statement made.

Q. And Mr. King, you heard the statement of Mr. King that you went out to lunch with him and Mr. Grasty together?

A. I believe I did.

Q. My recollection is that they said that you

went out to the Sol Duc restaurant, is that not a fact?

A. When I met Mr. King for the third and last time, when I met Mr. Grasty, he was down in front of the Sol Duc Restaurant on Front Street. He was basking in the sunshine at that time, and I come up by them, both were there and he come along and grasped me by the hands and said "How do you do, Mr. Hallahan," and I jollied him a little bit, and he says, "You refused to eat dinner with me on an occasion or two, and you had better come along now," and we talked about frivolous matters for a moment or two, and I concluded I would go and have lunch with him, although it was contrary to my custom to do so.

Q. And you did go in and have lunch with him?

A. I did go in and have lunch with him.

Q. After you came out from lunch you were standing there and talking with him, was that the occasion when you met Mr. Fisher?

A. I met Mr. Fisher before that. This was his last visit.

Q. You met Mr. Fisher before this occasion?

A. Yes, sir.

Q. Now you say that you heard that the fellow was no good; you not only had suspicions that he was no good, but you heard that the fellow was no good; from where did you hear that?

A. Mr. Fisher told me that they had investigated the fellow and he was no good.

Q. Mr. Fisher told you that?

A. Yes, sir.

Q. Was that the reason that Mr. Fisher gave you in giving you the advice not to give him the letter?

A. Well, this was afterwards he told me.

Q. That could not have excited your suspicions at that time if Mr. Fisher had told you?

A. You probably did not understand me.

Q. No, sir, I did not, if that is the fact.

A. When Mr. Fisher and I were in conversation Mr. Grasty come along and butted in; instead of his being like a gentleman, he butted into our conversation,—do you understand now? Then Mr. Fisher said

back to Mr. Grasty, "no, Hallahan can't give you the letter you have been demanding, or asking for."

Q. What reason did he give you?

A. I do not know why Mr. Fisher told me that. I do not know why; no, why should I know?

Q. What reason did Mr. Fisher say?

A. I can't give you any of Mr. Fisher's reasons, Mr. Peters; there is no use asking me.

Q. That is all the conversation then, Mr. Fisher says, "No, Mr. Hallahan can't give you that letter"; will you swear that Mr. Fisher did not say to Mr. Grasty at that time, or to you, that you could not give him such a letter, that it would be against the law and would incriminate you?

A. That I said.

Q. No, that Mr. Fisher said?

A. Mr. Fisher might have made that remark.

Q. Did he, or did he not?

A. I would not say that he did.

Q. Would you say that he did not?

A. I would not say that, neither; he might have said so.

Q. What is your best recollection as to whether he did or did not?

A. I do not remember anything I am not positive about; I would not say about.

Q. Did you say to Mr. Fisher that it was a fact that the assessed value of that property was so much lower than the real value?

A. Why, Mr. Fisher knew the assessed value of the property, I presume, and he also had good knowledge of the market value of the property.

Q. If the assessed value of the property was so much less than the real, or market value, why should Mr. Fisher advise you not to give a letter to that effect?

A. I don't know what Mr. Fisher's reasons were; I told you that already, twice, now; I don't know what Mr. Fisher's reasons were.

Q. And he gave you no reasons?

A. He was not speaking to me; he was speaking to Mr. Grasty.

Q. You were all three there after Mr. Grasty butted in, were you?

A. Mr. Grasty, having butted into our conversation, Mr. Fisher turned back on me and addressed himself to Mr. Grasty. I kept silent.

Q. Mr. Fisher said to Mr. Grasty, "Hallahan can't give you such a letter"?

A. I believe he did say that.

Q. You heard the whole conversation between Mr. Fisher and Mr. Grasty, didn't you?

A. Yes, sir.

Q. Did Mr. Fisher say, "Hallahan can't give you such a letter as that because it is against the law and would incriminate him"?

A. He may have said so, but I am not so positive, he may have said so. He might have said, "I can't give you such a letter", and you easily inject a few words in it, a sentence like you speak there and change it all around. A few words will change that entirely around, you know.

Q. Change what around.

A. What you have already repeated now.

Q. Tell me exactly what occurred?

A. I don't remember what was said down there, but I do know that a few words will change things materially. I know there have been lots of words changed in this proposition.

Q. Your objection then, as I understand, to giving this letter was not because the assessment was so far below the market value, but simply because you had suspicions of this man Grasty was that it?

A. He aroused my suspicions when he asked me for the letter and not only asked me for the letter, but he wanted me to specifically direct that letter to his address in Portland, Oregon. It was the first time during the time of my service in that office that anybody asked me to do anything like that, before, or since.

Q. What did he ask you to put in the letter?

A. I do not remember everything he asked me to put in the letter.

Q. What was some of the things he wanted you to put in the letter?

A. He wanted me to make a statement about the vast difference between the assessment and the appraisal, appraisal by himself and others on this property, that great vast difference that was presumed to exist there.

Q. You must have taken into consideration the vast difference that existed between the appraised value and the assessed value at that time when he stated that, did you not?

A. There was a difference, of course, there was.

Q. What was the difference?

A. I don't remember.

Q. Why would not you look at it and state to these people what the reason for the difference was?

A. To what people? In this letter?

Q. Yes, sir.

A. I guess I did not.

Q. Why shouldn't you?

A. Because I would be a fool if I did.

Q. Why so; why would you be a fool?

A. It is evident from what has transpired here.

Q. Why was it impressed on you at that time that you would be a fool?

A. They wanted a letter from me awful bad; that was evident, that they wanted it for this case, too; it seems like they had a job fixed in getting that letter from me, but they would never get that letter, I tell you that. They wanted it so bad; they wanted it so bad they had to send a third person to get it, and they tried another person to get it.

Q. Who was that person?

A. Mr. Babcock.

Q. How did he try to get it from you?

A. By the testimony produced, by Mr. Grasty's testimony, himself.

Q. Do you know, did he come to you about it?

A. Mr. Babcock?

Q. Yes, sir.

A. He certainly did not.

Q. When you say they sent another person to you it is not from any communication between Mr. Babcock and you, but from the testimony you heard in this case?

A. It is from the testimony of Mr. Babcock and Mr. Grasty himself that I heard here.

Q. Did you tell anybody else there about your suspicions of Mr. Grasty?

A. Sir?

Q. Did you tell anybody else there about your suspicions of Mr. Grasty at that time?

A. At that time, no.

Q. You did not mention it to anybody?

A. Not as I remember it. It all passed out of my memory. I had other things more important to think about at that time.

Q. You did not have any talk with Mr. Grasty about timber lands and the assessment of timber lands?

A. I don't recall any conversation of that kind.

Q. Will you swear that you did not?

A. I say I don't recall any such conversation.

Q. To the best of your recollection?

A. I have no recollection in the premises; I don't remember it.

Q. Didn't you tell Mr. Grasty in the presence of Mr. King substantially that it had been the custom of the assessor of Clallam County to assess the timber lands high in order to force the owners of timber lands to operate?

A. No, sir; I did not; nor anybody else in Clallam County, nor the state of Washington.

Q. Or substantially that?

A. No sir; I did not say that to Mr. Grasty, or to anybody else.

Q. You never said that to him?

A. During my term of office to anybody, to any individual, living or dead, no, sir, I did not.

Q. How is it that you know that so well, because you never talked to anybody?

A. Because I know it so well, because I knew my position as county assessor. I knew my duties under the law. I knew the fact of my making such a statement would be wrong in law, and I would be leaving myself liable. I knew my position from a legal standpoint in that matter all the way through, from the time I was elected. I am not a fool. I understand the law. I am not an attorney; but I understand the law pretty thoroughly, and when you trap me, you will trap a squirrel all right now.

Q. I want to get at the facts; I am not capable of trapping anybody, and don't want to.

A. You can't either.

Q. No sir, I can't, and I don't want to.

A. Mr. Grasty tried it.

MR. PETERS: I would not recommend myself to the court if I did try to trap a witness. I am trying to get the facts.

Q. You stated to me that you had no recollection of any conversation?

A. I have no recollection of any conversation with Mr. Grasty concerning timber lands in Clallam County. He was not there for that purpose apparently.

Q. Then you turn around and say positively in the most violent fashion you never told him this about timber lands?

A. I tell you I have no recollection of any conversation concerning timber lands in Clallam County.

Q. Or the assessment of timber lands?

A. Or the assessment of timber lands. I have no recollection of it, and I would say further positively that I did not say that we were over-charging timber men; I am sure I did not say that.

Q. Or anything to that effect?

A. No sir.

Q. Either to Mr. King or Mr. Grasty?

A. Or to Mr. King neither, or to anybody else in Clallam County, or this state. I never made any such statement to anybody. Mr. King, I guess, was a stool-pigeon for him.

Q. What was that?

A. I presume Mr. King was simply a stool-pigeon brought along for that purpose. It looked that way to me.

Q. Mr. Hallahan, on what basis did you assess the property in 1912 in Clallam County?

A. What do you mean by "basis"?

Q. Did you assess it at its full market value, or at a percentage of its market value?

A. Does that enter into this case? I thought my assessment was on the files here. I thought my assessment was on trial before this Court. I thought that was for you people to determine.

Q. (Question read)

A. I did not assess it at its full market value.

Q. At what value did you assess it?

A. Do I have to answer that question?

THE COURT: Yes, sir.

A. What percentage you mean, don't you?

Q. At what percentage, yes sir.

A. Is that what you have reference to?

Q. Yes sir; at what percentage did you assess it at?

A. The percentage I assessed in 1912?

Q. You have heard the question, and you know all about it now; answer it.

A. That was for 1912. The percentage that I assessed all the property of Clallam County?

Q. Yes sir.

A. Around about fifty per cent.

Q. Did you assess the timber lands at fifty per cent?

A. I endeavored to do that.

Q. And the city property at Port Angeles at fifty per cent?

A. I endeavored to the best of my ability, and the information at hand at that time, to assess property at about fifty per cent.

Q. What do you mean by "about fifty per cent"?

A. I mean around about fifty per cent.

Q. How near around about it?

A. You want me to determine why and how I done it?

A. Answer the question. How near around about fifty per cent you assessed the property in 1912?

A. I assessed it as near fifty per cent as I could.

Q. Was it your intention to assess it at fifty per cent, or fifty-one per cent?

A. Fifty per cent.

Q. Did that apply to farm lands?

A. To everything.

Q. And to city lands?

A. To city lands.

Q. And timber lands?

A. To timber lands.

Q. What did you figure as the full market value of the plaintiffs' lands in this case?

A. I did not figure those plaintiffs lands in this case.

Q. What did you figure to be the full market value for the purposes of assessment in this zone up here?

A. Repeat the question.

Q. (Question read.)

A. The assessment for 1912 in those lands and in this zone along the Straits?

MR. FROST: We object to that for the reason the law itself requires the assessor to place a separate value upon each legal description of land according to the largest legal sub-division in one ownership, and the assessor was not required under the law and it would be impossible for him to state, what particular value he put upon lands of any particular piece of property. The Supreme Court has declared that taxes and assessments are levied in mill and not in per centum, and in accordance with legal descriptions of property.

THE COURT: I understand from both sides that this timber land was so divided into zones and everybody else have been questioning about zone values. The objection is overruled.

MR. FROST: My suggestion goes to the individual descriptions of land; they might ask him what

he assessed some individual particular description of land; that would be a proper description upon his assessment roll; but not ask him what he assessed all values in one particular zone.

Q. (Question read)

A. The question is too ambiguous; I could not answer it that way.

Q. In what way did you not understand it, Mr. Hallahan?

A. You haven't asked me a direct question, you however, asked me an ambiguous question.

Q. You put on this land up here in the Straits zone for fir in 1912 a valuation of eighty cents a thousand, did you not, the assessed valuation of eighty cents a thousand, did you not?

A. I believe so.

Q. What do you figure to be the market value of lands in that section, in that zone?

A. I figured that eighty cents was about fifty per cent of its true value.

Q. You did?

A. Yes sir.

Q. As I understand from counsel the way you made up your assessments was to take each section and to make an assessment of each section, was that it?

A. Oh, no.

Q. You did not do it that way?

A. No, sir.

Q. You heard the objection of counsel here, just now, did you not?

A. Every description of property is assessed separately, every lot and every sub-division is assessed by itself.

Q. How did you assess these timber lands, just tell us the method in which you did it?

A. I explained that the other day.

Q. Do it again.

A. Each forty acres, if it be owned by one person, or each lot, or legal sub-division, is charged on the books by itself, and assessed by itself.

Q. Just tell us how you would assess any given

tract of timber in that zone, take any section in this Straits zone?

A. The method I employed to make my assessment was to figure the amount of timber in that particular description.

Q. You figured the amount of timber in that particular section?

A. In that description, not in the section.

Q. What description would you take?

A. Well, say, for instance, the Northeast quarter of the Northeast quarter of Section 1, township 31, range 14.

Q. Then you would take a certain quarter section?

A. I would take the Northeast quarter of the northeast quarter forty acres, and I would find thereon one million feet of fir, I would find one million feet of cedar, and one million feet of hemlock, for instance.

Q. What did you do then?

A. I could make the assessment by figuring at that rate, eighty cents, or seventy cents for fir, spruce or cedar, and forty-five cents for the hemlock.

Q. Then you did put down on a piece of paper the assessment for that particular quarter, that forty acres?

A. Yes, sir.

MR. EWING: I object to that on the ground that it is not cross examination. We do not examine him on those points and the court will remember our time is very short. We have covered with him two points; the matter of the conspiracy, and the matter of the interviews with Mr. Grasty. The matter of the assessment has not been gone into at all, and at this time it is improper cross examination, particularly due to the situation we find ourselves in in this case.

THE COURT: I overruled it on the ground that it is not proper cross examination, but I think it would be in the matter of saving time.

MR. PETERS: I think it is very important on our position on showing this zone, or I would not take the time.

MR. EWING: They are making him their own witness. We have not gone into this at all.

THE COURT: When fraud is alleged then all the bars are let down and grouped, every corner in the case, and everything that touches it.

MR. EWING: Note an exception.

THE COURT: Exception allowed.

Q. You would put down the assessment of this particular forty acres?

A. If you will let me explain it I probably can explain it faster than you can. Take the northeast quarter of the northeast quarter, that is forty acres of land that is shown on the books. We got a tab showing from the cruise books the number of feet of fir, and the number of feet of cedar, all through, being in the same class, in the No. 1 class, and add the three together, and multiply them by the rate which would give the total assessment. Then the forty acres of land was examined as to its soil, character, whether rough or otherwise, and added to that was the appraisement of the land; if there was any poles, or ties on that particular description, they were charged and the total added up together and carried into the record.

Q. Where is any record of assessment of any forty acres in your books?

A. Every forty is assessed pretty nearly by itself.

Q. Every forty is assessed pretty nearly by itself?

A. Yes, sir, and a pencil record kept in the assessor's office.

Q. Where is the assessment of any forty; have you got it here in your books?

A. There are books that will show forty acres assessment, yes sir.

Q. Of these various tracts?

A. I would not say about those particular tracts.

Q. (Mr. Riddell) What do you want, 1912, or 1913? (Get the books)

A. Either one will do.

Q. (Mr. Peters) Did you do that with every forty acres of timber lands you have assessed?

A. Every forty acres of timber land we could

separate at all has been charged upon the books separately.

Q. How did you come to draw those lines here by zones?

A. That was a matter of calculation.

Q. How do you calculate it?

A. We calculate from the information at hand.

Q. Give us the calculation; what did you put in the zone on the Straits?"

Mr. Frost, for the defendants, objects to this line of cross examination upon the ground that the witness cannot be interrogated as to the mental processes or theories of the assessing officers in making up the assessment. The objection is overruled by the court, and an exception reserved.

THE COURT: That may be true, but this case cannot be tried at once, and it might be that the Court would be forced to the conclusion, that in establishing these zones that they were established so arbitrarily and without any pretence on the part of anybody that there was any reason for them that would constitute constructive fraud. I will overrule the objection.

MR. FROST: Note an exception.

THE COURT: Exception allowed.

I am willing to assert that it seems perfectly reasonable to me that zones should be established, I would not have the assessor go out and look at every tree and every limb on every tree. There has got to be a line drawn some where, so as to establish legal subdivisions, or zones. It is all a matter of establishing zones some time, whether ten acres, or a million acres in them; It appears reasonable to me that zones should be established. But if counsel should make out that it was so arbitrary as to constitute constructive fraud he should have an opportunity to do it.

"Q. (Mr. Peters) How did you come to draw this line that I am now tracing?

A. That line represents my judgment at the time I put it on there.

Q. Judgment of what?

A. Judgment as to the assessment of timber within that line to the north of that line.

Q. Then, as I understand you, you made a detailed estimate of the values for the purposes of assessment of over forty acres and then——

A. The law requires that——

Q. And you fulfilled the law in that respect?

A. Yes sir.

Q. And after having done that you got out a map and drew a line down here in this way, and you said that all of the timber lands up along here, included between this line and the Straits, was assessable at eighty cents for fir, cedar and spruce, and forty cents for hemlock, is that a fact?"

Whereupon Mr. Ewing, for the defendants, renews the objection, which is again overruled by the Court.

"Q. (Question read)

A. For the year 1914?

Q. For 1912, for eighty and forty?

A. Yes, sir.

Q. That is the way you did that?

A. That is the way I done it, yes sir.

Q. Why didn't you begin this line, say, four or five miles over to the east of where you did, and run it down two miles south of where you did?

MR. EWING: I object to that.

Q. (Mr. Peters) What I want to get at is to have you explain just why you ran the line the way you did; why did you run that line just the way you did?

A. My judgment at that time ruled my way. My judgment was that the timber laying north of that line was worth that amount for assessment purposes.

Q. Your judgment was that all the timber laying north of this line, and south of the Straits, I am now pointing at what you designate zone 1, was worth eighty and forty?

A. Yes, sir.

Q. That is why you drew that line that way?

A. Yes, sir.

Q. And that is the way you assessed the property for 1912?

A. That is the way I assessed the timber, the timber only.

Q. Mr. Hallahan, now referring to this zone No. 2, why did you draw the lines, the boundaries, of this zone No. 2, in the manner in which you did?

A. That is about my judgment. I exercised my best judgment, was one of the reasons.

Q. As to what?

A. Why I drew the lines there. The main reason was my exercise of judgment.

Q. And you claim all the lands lying in that zone of assessible value on timber of seventy cents in 1912, for fir, cedar and spruce, and thirty cents for hemlock? I presume those are the exact figures. It is your map.

A. I do not know about that map.

Q. If you come here and look at it, or refer to your own map?

A. I expect them figures are correct. I am assuming that your figures are correct.

Q. Yes, sir, assume that.

A. Yes, sir.

Q. Then in the same manner you formed this zone No. 4, did you, in which, for 1912, the timber is assessed at sixty and thirty?

A. To shorten the matter up, I would say that I exercised my judgment in establishing all these zones, in making the zones I took in the surface of the country, the kind of timber and other characteristics that entered into the general topography of the country, everything concerning its physical character.

Q. Do you mean to tell us that every forty in this upper zone, for instance, after you figured it out, figured out at eighty and forty?

A. Every one was figured at the same rate.

Q. And every forty that is within this zone No. I figures out at an assessible value at eighty and forty, does it?

A. Eighty and forty, where it is timber land.

Q. Every forty included in the detailed assessment that you figured out?

A. Yes, sir.

Q. And every forty that you figured out in the detailed manner in which you have heretofore related that lies within this zone No. 4 figured out at sixty, and thirty cents for 1912?

A. Yes, sir.

Q. That is true of all these zones?

A. That is true of all these zones.

Q. Were the logging conditions exactly the same with respect to every forty?

A. As I said before, according to my best judgment in the premises, this represents my judgment, and my judgment is based on the knowledge I had at the time.

Q. Are the logging conditions of this tract which I point to here now the same as the logging conditions in this tract in yellow down there?

A. I can't tell you off-hand.

Q. Why did you put the same value?

A. I could not tell you that off hand, either. My judgment is uniform within the zone.

Q. Are all the properties within the zones of the same logging abilities, the same accessibility?

THE COURT: I do not think he is an authority on that.

Q. Has there been any change in the value of timber lands in Clallam County between 1912 and 1914, that is the timber lands concerned here?

A. Any change in the value?

Q. Yes, sir.

A. Well, there might have been; I am not the best judge of that.

Q. Was there, in your judgment, any change in their values?

A. In my judgment there was very little, excepting this: I do know that our local mills in Port Angeles raised the price of their timber on the local market on the first day of March, 1914.

Q. Your local mills?

A. Yes, sir.

Q. That is, on the manufactured lumber?

A. Some of it manufactured in Seattle.

Q. I asked you whether the value on timber lands involved in this suit changed between March 1, 1912, and March 1, 1914?

A. I expect that they did not.

Q. Then why did you assess them at some fourteen per cent higher in 1914 than in 1912?

A. Because I had discovered that I had under-assessed the lands for 1912.

Q. You had assessed them for 1912?

A. Yes, sir.

Q. How did you discover that?

A. By calculation. I had my cruises completed in 1914, which I did not have in 1912. There was only a partial county cruise in 1912.

Q. Only a partial cruise?

A. A partial cruise, under my jurisdiction, and I did not have the information at the time in 1912 that I had in 1914, and I was not in the same position to intelligently put on the same assessment that I did in 1914, consequently I discovered in 1914 that I had under-assessed the timber in all the zones, or in all the county, in the year 1912. It was an error on my part, and it was not done intentionally. I did not have the information I had in 1912. I only had very little information at that time.

Q. (The court) You say you did not have it that you had in 1912? You mean 1914.

A. The information I had in 1912, I did not have that in 1914.

THE COURT: You are turned around again.

A. I mean it the other way. I mean I did not have in 1912 the information that I did have in 1914. Now, that is correct.

Q. (Mr. Riddell) All the rest of us were wrong, and you were correct.

A. Therefore when 1914 came, I changed my values. The information which I derived satisfied me that my assessment for 1912 was an under-assessment

for the market value at the percentage applied.

Q. (Mr. Peters) Do you mean to tell us that you did not make the levy of the assessment upon the same cruise in 1914 that you did in 1912?"

Witness says, there were considerable of the county lands uncruised in 1912, when he made the assessments. He thinks all of the ranges 14 and 15, which comprise a vast amount of the timber and lands of the county were uncruised. There was a mixed cruise upon it, private cruise and county cruise. Witness points out as uncruised in 1912, townships 15 and 16 in the west part of the county, and Range 14 was not cruised, except possibly township 28, and Range 9 and all east of range 9 was probably not cruised.

"Q. (Mr. Peters) But barring those exceptions which you have referred to the assessment of 1914 was based upon the same cruise as 1912?

A. Yes, sir.

Q. Then why did you raise the assessment on those lands which were not in these townships referred to by some fourteen per cent?

A. Why did I raise the percentage here, and not in the other places?

Q. No sir, I did not ask you that.

A. It was under-assessed, as I said before; in 1914 I discovered.

Q. Yes sir, but there was no change in the cruises.

A. I know there was no change in the cruises.

Q. How was it under-assessed?

A. Because I discovered that it was.

Q. In what way did you discover it?

A. I discovered it after I had the entire county cruised, and all the information at hand I discovered that the assessment was under.

Q. Now, what new information did you get with reference to this timber land that was not within the range which you have above referred to as were re-cruised, or cruised after 1912; what new information did you get about them?

A. About this land here?

Q. Yes, sir.

A. I do not know whether you can call it new information on about the land; I had the information insofar as reports were concerned, but their value was not determined. I had determined since then an outlet for that timber that I had not thought of before

Q. What feature induced you to increase the percentage of assessed valuation upon those tracts of the plaintiffs that were not within any of the ranges that you referred to as being cruised in 1912?

A. In 1912, March 1, when I made my first assessment, there was no railroad in Clallam County, excepting the logging road. The Milwaukee Railroad people were not building in this county, and they were not contemplating to build it, so far as I knew, In March 1st, 1914, they had a line of railroad from Port Angeles westward, to, I believe, the western line of range 9, or thereabouts, a right-of-way, and graded, and they had a right-of-way secured to the eastward, and they were prosecuting the work of constructing the railroad.

Q. That is why you increased the assessed valuation from 1912 to 1914?

A. It was one of the reasons.

Q. What were some of the others?

A. The other reasons were, as I said before, I discovered this timber in here, that you have mentioned particularly had an outlet that I had not dreamed of when I made the assessment of 1912.

Q. What was that outlet?

A. Probably in two ways. By way of this railroad and by way of Lake Crescent.

Q. That is the only outlet, the outlet by the road?

A. Yes sir.

Q. You have told me there were other reasons; I asked you what the other reasons were.

A. I told you that was the main reason.

Q. No, you did not tell me that was the main reason; what were some of the other reasons?

A. It was under-assessed at that time.

Q. Why did you conclude that it was under-assessed? What were some of the other reasons? Why did you determine that it was under-assessed, besides the reason that the Milwaukee line had built its railroad?

MR. FROST: I object to that. They are undertaking to go into the mental processes of this witness, and the Supreme Court of the United States has expressly ruled that that is highly improper.

THE COURT: The objection is sustained.

MR. PETERS: Note an exception.

THE COURT: Exception allowed.

MR. PETERS: I desire an exception and will offer to prove by this witness if allowed to answer that he would not be able to give any other reasons than the reasons that he has already given, as being this line of the Milwaukee building, as he before stated.

THE COURT: The offer is denied.

MR. PETERS: Note an exception.

THE COURT: Exception allowed.

Q. Mr. Hallahan, as I understand you, you assessed all of the property, the city property, the farm property, the timber lands and the personal property in Clallam County at the same rate; that is, at fifty per cent of its actual value?

A. I endeavored to do that, yes.

Q. Do you know what the assessment for 1914 was on the Port Angeles Trust & Savings Bank?

A. I see you have the statement in front of you there. I do not quite remember.

Q. Two thousand dollars?

A. Something like that.

Q. Do you know what the capital stock of that institution was?

A. It was a bank, just incorporated a few days before the first of March, and did not have anything except capital stock.

Q. Do you not know that the capital stock of that bank was twenty-five thousand dollars?

A. Presumed to have been, yes.

Q. And you assessed that at two thousand dollars?

A. Yes sir.

Q. At what did you assess it for 1912, the Bank of Clallam?

A. You have the statement there.

Q. Three thousand dollars, wasn't it?

A. Yes, I presume that is correct.

Q. Do you know what the capital stock of that is?

A. I think it is twenty-five thousand dollars.

Q. Twenty-five thousand dollars?

A. I think so.

Q. What was the surplus of that bank at that time?

A. I do not know.

MR. EARLE: Don't you know that the surplus and undivided profits of the bank of Clallam ran something over five thousand dollars?

MR. EWING: Is your Honor still of the opinion that they can make their case on cross examination when we do not touch on any of these points with this witness?

THE COURT: The objection overruled.

MR. EWING: Note an exception.

THE COURT: Exception allowed.

Q. (Mr. Earle) Don't you know the size of the surplus of the Bank of Clallam in 1912?

A. I cannot carry all the figures of Clallam County in my head. It is impossible for me to do so. It is unfair to ask me.

Q. What did you consider the basis on which you were assessing Clallam County?

A. I think I was assessing that bank like everything else.

Q. You were assessing that bank at the same rate?

A. Yes, sir.

Q. Do you know what you assessed the Citizens National Bank of Clallam County at?

A. I think the same rate as the others.

Q. Two thousand dollars?

A. I think so.

Q. Do you know what the capital stock in 1912 was?

A. Twenty-five thousand dollars.

Q. Do you know what the surplus and undivided profits were?

A. I don't remember; I don't know as it cuts any particular ice.

Q. Do you know what the assessment on the Bank of Sequim was in 1912?

A. I don't remember.

Q. Was it twelve hundred dollars?

A. Probably.

Q. Do you know what the capital stock was?

A. I do not know.

Q. Was it not ten thousand dollars?

A. I think that is it, yes sir.

Q. And didn't the surplus bring it up to twelve thousand dollars?

A. I do not know about the surplus.

Q. This Citizens National Bank of Port Angeles, is the Bank which John Hansen, Chairman of the Board of Equalization is director, isn't it?

A. I do not know.

Q. Don't you know that he is the director of that bank?

A. He probably is; I do not know.

Q. Do you remember what the assessment of that Bank was in 1914?

A. About three thousand dollars, I presume.

Q. Had the capitalization been increased since 1912?

A. I do not know.

Q. Didn't it stand with surplus and undivided profits at something over thirty thousand dollars?

A. I do not know.

Q. Did you make it your business to find out?

A. In what manner?

Q. The Statute of the State prescribes how you shall assess Banks, doesn't it?

A. Supposing the bank does not give me for assessment what they have. I have no power, as county assessor to enforce anybody to do anything.

Q. Did you try to find out?

A. I got a statement from them, I presume.

Q. You could have gone into the office?

A. I could not enforce any statement.

Q. You could have gone into the office of the auditor of Clallam County and found out the capitalization of that Bank, couldn't you?

A. I probably could.

Q. You knew that you could?

A. I probably could.

Q. You knew that source of information in the office was open to you, didn't you?

A. I am satisfied of that. I told you about the capital stock.

THE COURT: There does not seem to be any question about the capital stock.

WITNESS: Regarding the assessment of Banks in this State I would like somebody to tell me how they are assessed.

Q. The Statute provides that.

A. They all have their method of assessing them. I haven't found out yet how to assess a bank.

Q. How did you assess them?

A. At a flat rate.

Q. What was that rate?

A. Three thousand dollars, as appearing in the record, banks with real estate.

Q. But in assessing the bank of Sequim in 1912, what rate did you apply to that?

A. The same rate.

Q. Was it not a ten per cent rate?

A. I do not know; it was about the same rate; according to the capital stock it is not.

Q. You applied the same rate to all the banks, didn't you? You applied the same ratio of assessment to all the banks?

A. I think I endeavored to do it.

Q. You treated the banks all alike?

A. I think so.

Q. In arriving at the assessed valuation on these banks whose capital stock varied, you must have had in mind some rate; what was that rate?

A. A rate of——

Q. The ratio which the assessed valuation bore to the valuation which you should have taken, do you recall what that rate was?

A. The banks having real estate——

Q. Don't you know?

Defendants' counsel objects to this line of inquiry of plaintiffs on the ground that it is not proper.

Objection overruled. Exception allowed.

“Q. (Mr. Earle) You have referred to the fact that banks own real estate?

A. Yes sir.

Q. You know that the Citizens National Bank did not own any real estate and could not own any under the law?

A. I do not think any of them can under the law.

Q. Don't you know that at the time you made the 1914 assessment on the Port Angeles Trust & Savings Bank of which Mr. Babcock is vice-president that it held no real estate; don't you know that?

A. I expect it did not, no; it may have for all I know, too.

Q. Did you make an effort to find out?

A. No.

Q. But you applied to that bank the same rate based on the capitalization of it that you applied to the other Banks, did you not?

A. No, sir, I don't think so, the same capital stock as the other banks. It is assessed at two thousand dollars, and the other is assessed at three.

Q. Why should you allow them to get off with one thousand dollars less on the assessed valuation if they are all capitalized for the same amount?

A. Why did I do it?

Q. Yes, sir.

A. The bank that had just opened, it did not have anything.

Q. It doesn't make any difference whether they were succeeding or making money, you took those things into consideration; you would not get it by the Statute in that manner, would you?

A. I haven't found out what the Statute is.

Q. Did you ever look for it?

A. I did.

Q. Could you find it?

A. I would not find at what to assess the bank, and that is not the only assessor in the State, either, that hasn't found out. The assessors of your county haven't found it out. No sir, they have not found that out, and many of the others haven't found it out; how to assess a bank, and have it assessed legally, that is a fact. The assessor of your county has not done it."

REDIRECT EXAMINATION

On redirect examination witness says, in making his assessment in Clallam County for the three years of 1912, 1913 and 1914, he was moved by his best and honest judgment, and nothing else. Witness says, that while the assessment on timber lands in Clallam County was raised ten per cent, in 1914, real estate in the City of Port Angeles was raised forty per cent, that is, taking the whole town into consideration. Some of the property in the business district was raised from two to three hundred per cent. The farm lands in 1914 were raised twenty per cent., over 1912. The total increase of assessment for 1914 over 1912 over the whole county was twenty per cent.

Q. What in unimproved lands?

A. I will have to make an explanation here. I will state first the valuation of timber lands was raised ten per cent according to my figures. Now, in 1914 when the cruise of the County was completed it had shifted a number of acres which were formerly called wild land and put them into the timber land class. Because the cruise showed that they were timbered acres rather than wild land; in other words they didn't have over three hundred thousand feet per forty acres. That reduced the unimproved, and threw the acreage into the timber land class, and with that the timber only

shows an increase of ten per cent, and compared with the year before it would show that the unimproved would not have increased any compared with that, because the increases are less.

Q. You have already given the raise on the city property?

A. Yes, sir; also city and town lots. It would include the City of Port Angeles, the town of Sequim, and wild cat lots scattered promiscuous around Port Angeles and down towards Clallam Bay, and the lake. Them added together show an increase of thirty-eight per cent for city and town lots. The increase on city and town lots was thirty-eight per cent.

Q. How did you assess the real estate of the bank?

A. It is assessed like other classes of property.

Q. Are the banks in Port Angeles, in Clallam County, possessed of real estate?

A. Oh, yes, sir. The Clallam County Bank has it carried on the books in their name and I am not quite sure that the other banks carry any property in the bank's name, but I believe it is strictly against the law to do so. It is also against the law for the other banks to carry property except in a small amount.

Q. Do you not know that the bank has a right to carry real estate that is taken in the process of collecting and enforcing the collection of debts?

A. Yes, sir, my understanding is that they all carry real estate. I am not sure that the bank of Clallam carries it, because it is of record.

Q. Do you have any knowledge of the amount of capital of any of the banks that may or may not be invested in real estate?

A. I believe that nearly all of the capital stock of that Clallam County Bank is invested in it."

Q. You have heard the testimony here of these witnesses with reference to this boom that occurred in Port Angeles City in 1912, the winter of 1912, flattening out in 1913, haven't you?

A. Yes, sir; I have heard the testimony.

Q. And that property continued either stable, or

no higher from that time on until March of 1914?

A. I have heard the testimony given here.

Q. Was that your judgment with reference to the value?

A. Was that my judgment? The judgment expressed here?

Q. Yes, sir.

A. That there was a boom?

Q. Yes, sir, and that the values flattened out in the spring of 1913, and the values went back to about what they were before that boom?

A. In a general way, I believe so.

Q. Why did you assess the property at forty per cent more in 1914 than it was in 1912?

A. There was the tail end of that boom was left the first of March.

Q. You just allowed for the tail end of it in the forty per cent?

A. That forty per cent included some new stuff.

Q. And some of it you say that you assessed two hundred and three hundred per cent more?

A. Yes sir; where it was assessed for one hundred dollars I raised it that much.

Q. As a matter of fact, this first law suit had been begun, had it not, before you made your assessment for 1914?

A. I think not.

MR. EWING: It began May 29th, 1914.

Q. (Mr. Peters) When did you make your assessment, 1914?

A. The first of March, of course.

Q. You made your assessment as of the first of March, but when did you turn your rolls over to the Board of Equalization?

A. I turned the rolls over to them the first day of August.

Q. The rolls were not completed until the first day of August, 1914?

A. I would not say as to that; they may have been completed some time before that.

Q. When were they completed?

A. I don't remember.

Q. As a matter of fact, this suit was begun in March of 1914, wasn't it?

MR. RIDDELL: May 29th.

Q. Had there been any more increase in the value of farm lands from 1912 up to 1914?

A. I could not ascertain that there was much of an increase in farm lands.

Q. Why did you increase every valuation then by twenty per cent?

A. After making this cruise that I have spoken about so often I discovered more acres of farm lands than existed before.

Q. Did the fact that there were more acres of farm lands than you discovered before increased the value of those that you had before?

A. You are speaking about totals; so am I.

Q. In giving those values, you mean merely that you found that there was twenty per cent more of the improved farm lands in that county in 1914?

A. What I mean by that, twenty per cent was taking the assessment of farm lands for the year 1912 and compared with the improved farm lands for 1914 and that it shows an increase of twenty per cent.

Q. In improved farm lands?

A. In favor of farm lands. I did not say I had raised the price of farm lands from twenty to five hundred dollars an acre; I did not mean that.

Q. You do not mean that you took John Smith's improved lands in 1912, and the same lands in 1914, you do not mean that his improved lands were assessed twenty per cent more in 1914 from that of 1912?

A. I adjusted the lands in 1914. I had better reports on the lands than I had before, and it brought about a re-adjustment.

Q. You stated early in this case when these assessments books were spread out before you that your assessment was made directly from the pages of these books, didn't you?

A. Absolutely, myself. I made every assessment myself.

Q. And these books were made up, they were the same in 1914 as they were in 1912?

A. No sir, those books were not in existence in 1912.

Q. They were not?

A. No, they were not compiled at all.

Q. You did not use them for the 1912 assessment?

A. No, not them books that were in court, no.

Q. You do not mean that there was any increase in the valuation per acre of improved lands in 1914 over 1912?

A. There may have been a little.

Q. But what you did mean was that the number of acres of improved lands by the new classification had increased in 1914 over 1912 by twenty per cent?

A. Yes, sir.

Q. What?

A. I said, Yes, sir;—I may have went a little too far; it may not be absolutely, but about very close to it, because there was some changes in the valuation.

Q. You do not mean either then, that the city property was increased by an assessed valuation of forty per cent in 1914 over the assessment of the same property in 1912, do you?

A. Yes, sir.

Q. You do mean that?

A. That is what the figures produce.

Q. You mean that taking the area of lots in the principal business section in the city of Port Angeles, taking the assessment in 1912 and taking the assessment in 1914,—that the assessment in 1914 had increased over the assessment of 1912 by forty per cent?

A. Generally all over the town.

Q. That is what you mean?

A. No, no, no; not along that line; you and I are measuring differently.

Q. That is what I want to get at.

A. You want me to say that I have raised the average percentage of each lot for the 1914 assessment?

Q. I want you to explain what you mean by the increase, by the forty per cent for 1914 roll over the 1912?

A. I have said that the 1914 shows an increase of nearly forty per cent over that of 1912, generally.

Q. Forty per cent of what?

A. Of the 1912 assessment.

Q. That is the lots, in 1914 were assessed at forty per cent more than the same lots were assessed in 1912?

A. No sir, I do not mean that.

Q. What do you mean?

A. That the total assessment of the city of Port Angeles was increased forty per cent over the 1912 assessment; that is general; I am not telling what I have increased any one particular lot in the vicinity. That would be impossible for me to do.

Q. What was the reason for that increase of assessment in 1914?

A. Some lots were increased in assessment.

Q. Why were they increased in assessment?

A. Because I exercised my judgment in putting on that assessment, as I do in other classes of property. It was my judgment that them lots were worth that much more money.

Q. Did values in Port Angeles of city property improve from 1912 to 1914?

A. Did the values increase, do you mean?

Q. Yes sir.

A. I do not suppose they did in one sense, but did in another.

Q. In what sense did they increase, or what didn't they?

A. From a speculative standpoint they increased.

Q. Your assessment in 1914 was based on a speculative increase?

A. It entered into it, yes sir, to some extent it was speculative. It wasn't real by any means. I wish it was."

Thereupon the court announced that, as he had previously advised counsel, he would have to have

the balance of the evidence in the case taken before a referee, as the court was under an engagement to hold a session in California. Mr. A. D. Williams thereupon appointed referee to take the testimony.

Thereupon the parties proceeded with the production of evidence before the Commissioner, A. D. Williams, as Referee.

J. C. HANSEN, a witness on behalf of defendants, testified substantially as follows:

DIRECT EXAMINATION

Witness lives in Port Angeles. This is his fifth year as County Commissioner of Clallam County. Was a member of the Board of County Commissioners and County Board of Equalization in 1912, 1913 and 1914.

Denies the existence of, or any participation on his part in any conspiracy, or combination, as pleaded by plaintiff, or otherwise. Says, if there had been rumors of any such conspiracy he would have known of it, and he knew of none such.

Has resided in Port Angeles twenty-four years.

He is a Republican. Mr. Hallahan, and he, were campaigning at the same time, but separately. Witness say that during his campaign he made no promises or pledges, that any discrimination would be made in equalizing the taxes of the timber lands of the county over other property. Witness was telephoned one evening to come down to meet a gentleman from Portland who stood ready to make a loan to the Elks. Witness was in on the finance committee. He was chairman of the building committee. Witness details his meeting and interview with Mr. Grasty as follows:

"A. Yes sir, for the purpose of building a large building to cover a piece of ground one hundred feet frontage by eighty feet deep. We had a prospect of getting the United States Post Office into that building, and three other stores that are now down in the fire district on Front Street; and I met Mr. Grasty at the Commercial Hotel. In his testimony he claimed that I was present at a meeting that was held in the

back room of the Port Angeles Trust Company & Savings Bank, or whatever the name of the bank is; but I do not remember that meeting. He also claimed that I have said Port Angeles property was assessed at the rate of 20% and that Mr. Babcock contradicted me, saying that it was only 10%; but he was mistaken. I do not remember any such conversation; I do not remember of ever having been in the back room of the Port Angeles Trust & Savings Bank, because I am not doing business in the bank, and if I had been there I would remember having been in that particular back room. But I really don't know the back room. Then Mr. Grasty—— All the talk I ever had with Mr. Grasty was in the store, in the balcony, where my desk is. But in the meantime I had several talks with the finance committee and other members, and then Mr. Grasty came to me and asked me if I could give him a letter, why there was such a great difference between the assessed valuations and the prices that we were putting on the property. Then he and I, that is, I made a pencil sketch of about what he wanted, and asked him if that was about the substance that he wanted, and he said, 'Yes sir'. And I think that he came back within a half hour, while I sat down and wrote out on the typewriter, and got him the letter. And then I met Mr. Grasty again, I don't know whether a week or two weeks later, when he came to Port Angeles with Mr. King. I only met him at that time, I don't think over five minutes. He came to town in the morning. I think the steamer landed in Port Angeles at seven o'clock.

Q. At seven o'clock in the morning?

A. In the morning; and I left Port Angeles that same day at noon for Seattle. He came down to the dock with Mr. King and was very pleasant and invited me to go to dinner with him at the Washington Hotel; but I left my card at the Washington Hotel the following day excusing myself, that I could not attend, and that is the last that I saw of Mr. Grasty, except— Oh, there is one more thing. He stated on the stand that he had received no telegrams from home of any

kind. Now then, he did telegraph to Mr. Tom Trumbull, and Mr. Trumbull was out of town and I answered the telegram, and in the telegram I stated that Mr. Trumbull——

MR. PETERS: We object to that.

Q. (Mr. Frost) Have you a copy of that telegram?

A. I have got it right here. He repeats the telegram in his letter here. He says, "In reply to this I received the following from J. C. Hansen, of Port Angeles: "Trumbull out. If you have a proposition without stringing us we are ready to do business and take the matter up anew". For that he wanted an apology afterwards. And I think he repeats the same thing in a telegram, in a night letter to some one here: "Your day letter of yesterday received. Am sorry if you and others are laboring under the misapprehension that I am stringing you in regard to Elk building bonds, or any other business pending in Port Angeles."

Q. (Mr. Peters) What was the date of that last telegram?

A. June 10th.

Q. Of 1914.

A. That is the only time we ever met. There is no other year connected with Mr. Grasty. The reason I telegraphed about stringing us was because he always found an excuse and never came through with the money.

MR. PETERS: I object to what your reasons were as being incompetent.

(Telegram submitted to Mr. Peters)

MR. PETERS: No objection.

(The telegram referred to is marked defendant's exhibit "30" and received in evidence.)

MR. FROST: We offer this letter in evidence.

MR. PETERS: We have no objection to this letter of June 10, 1914.

(The letter referred to is marked defendant's exhibit "31" and received in evidence.)

Q. In Mr. Grasty's testimony he says, "I asked Mr. Hansen if he would please explain to me the wide

difference between the actual value of Port Angeles real estate and the assessed value, and Mr. Hansen stated to me, "Mr. Grasty, we make it our business here to soak the outside fellow, and the fellow that has got the more money, and with our local people we keep these assessments down. We have made it a rule to keep the assessments down, the taxes of Port Angeles property." He said to me, "We have a lot of timber standing in this country, owned by eastern interests." And he said, "It is our purpose to get after those fellows and soak them heavy taxes so they will begin operations, and it will all benefit Port Angeles." What have you to say regarding any such purported conversation?

A. That is nearly all false, absolutely false.

Q. What, if any, conversation did you have with Mr. Grasty concerning non-resident owners of property, and the big timber interests?

A. Well, I will explain. I am hard to catch. I am very busy all the time, and a man catches me generally about five minutes and seven minutes, and ten minutes, and all the talk we have had was about the proposed building, because all of his business was with the finance committee, and he came rushing up to me in the office whenever he could catch me, and was after that letter, and then in order to get rid of the matter as quick as I could, because, like I told you, I have to go out to different places here and there at all times, and I drafted that while he was right in my presence and the matter was disposed of, and I had really forgotten all about it. Neither did I mention to Mr. Babcock at all that I had written such a letter until I heard it was here in Court the other day, or to Mr. Hallahan. There was never no conversations between us that I had given any letter to Mr. Grasty. That is as little thought as I had ever given the matter.

Q. Regarding this alleged conversation between you and Mr. Grasty concerning non-resident property owners and the large timber interests in Clallam County?

A. That was never mentioned.

Q. It was never mentioned?

A. No sir; we did not even have time to mention it.

Q. What was your purpose or object in writing this letter to Mr. Grasty?

A. Entirely for the purpose of receiving the money for the proposed building. We all did all we could, every one of us that was interested; and it would have been a good loan if he could have made it.

Q. Mr. Hansen, was it ever suggested or requested of you or any member of the Board of Equalization, or any assessing officer of Clallam County that you know of, or by any citizen, or organization of Clallam County, that you would assess or equalize the value of the lands of these plaintiffs, or any of the timber lands of Clallam County, at a higher or greater proportion of its value than the property situated within the city of Port Angeles, or the Eastern portion of Clallam County?

A. To assess timber land higher?

Q. To equalize the timber lands at a higher proportion of its value than the property situated in the City of Port Angeles, or the eastern end of Clallam County?

A. Such request was never made. I would like to make one more statement regarding the proposed building.

Q. Go ahead.

A. When that matter started up the lodge members pledged themselves to raise amongst themselves fifteen thousand dollars, and then we employed an architect and got out the plans, and it was found that the building would cost about forty thousand, thirty-eight thousand, I think, was the estimate of the architect; and so we would only need to raise twenty-five or thirty thousand dollars. But we thought that we would take the burden of raising the fifteen thousand dollars off from our members, because we figured that it would take about five thousand, I think it was, to pay for the furnishing of the lodge rooms, and we thought then that since Mr. Grasty was there with

plenty of money, we would try him for forty thousand dollars; Then we came down to thirty thousand, and finally we dropped clear down to twenty thousand; and we did not get the money.

MR. FROST: You may cross examine.

MR. PETERS: No questions.

(Witness excused.)”

FRANK LOTZGESELL, a witness produced by the defendant, testified as follows:

DIRECT EXAMINATION

Has lived at Dungeness, Clallam County, forty-seven years; is a farmer; was County Commissioner of that county from the year 1911 to 1914, both inclusive; is a Republican. Witness has acquaintance with Mr. Hallahan, Mr. Hansen, Mr. Babcock and Mr. Erickson. The latter was on the Board with him two years. Witness has been more or less active in politics.

Witness has never been connected with, and never heard of the existence of any such conspiracy or confederation as pleaded by plaintiff or otherwise.

Q. Had there been such a conspiracy or confederation as I have referred to what would you say as to the probability that it would have come to your knowledge?

A. I certainly think it would.

Q. State whether or not any such conspiracy or understanding or agreement as that I have referred to in fact existed.

A. It never did.

“Q. Mr. Grasty has testified regarding a conversation with you as follows: Q. Did you have any talk with Mr. Lotzgesell with regard to the values?

A. I had a talk with Mr. Lotzgesell regarding the values of property in Clallam County, and in Port Angeles, and he informed me that taxes were higher outside of Port Angeles than in other places in Clallam County, that the taxing business was in the hands of Port Angeles politicians. He stated to me that they were assessing the timber people at a stiff rate of interest and that they had been protesting and he expected

some trouble from that source. I asked him if he would mind giving me a letter covering this difference from his view point, between the assessed and the real value of the property, and he promised me that he would, and that he would bring it into Dungeness the next morning. This was on Saturday night. At ten o'clock in the morning Mr. Lotzgesell had not put in his appearance, and I telephoned his home, and he replied over the 'phone by saying: "Mr. Grasty, I have decided that I cannot give you that letter that I promised you", and I asked him why, and he stated that he was afraid of getting himself into trouble; and that there were certain things going on that he could not talk about and that somebody was likely to be gotten across a barrel." And he would explain to me what he meant when he saw me in person, and he could not talk to me over the phone." Mr. Lotzgesell, will you state your version of such conversation as you had with Mr. Grasty, if any?

A. That statement of Mr. Grasty's is absolutely false.

Q. Just what did happen between you and Mr. Grasty?

A. Mr. Grasty called me up from Dungeness over the phone and told me that he wished to see me on some very important business, that he could not talk over the phone, and wanted to know how he could meet me. I told him I would come in that evening and see him.

Q. Is this the first time that you came in contact with Mr. Grasty?

A. Yes, sir; that is the only time I ever met Mr. Grasty.

Q. Did you meet him personally at the time he called you up?

A. Yes, sir; I went out and met him at the hotel.

Q. He called you up first, did he?

A. Yes, sir.

Q. All right, go ahead.

A. I went to Dungeness and he was waiting for me, and he introduced himself, took me up to his room

in the hotel, and he told me that I owned a couple of lots at the head of the Bay in Port Angeles, close to the Earles' Mill, and he would like to buy them of me. I told him that he was mistaken, that the lots belonged to my brother, that I owned no lots there. I said, "You can call him up over the phone, if you want to". He said very confidentially that he was looking up a big mill site for Merrill-Ring Lumber Company, and he didn't want anybody to know anything about it, and for that reason he did not want to call him over the phone. He told me also he was negotiating with the Elks to make them a loan and showed me a statement that he had from Mr. Lutz and Mr. Christensen in regard to the value of property, and asked me what I thought about it. I kind of laughed and told him I thought they were pretty high on Port Angeles property. He asked if I did not think Mr. Lutz and Mr. Christensen were very conservative business men. I told him I thought they were, but they and I did not agree on the prices of Port Angeles property. He said he did not know how he would make a loan unless there was some showing made to his firm that the property was assessed so low. He asked me if I could not give him a letter of that kind. I told him I did not see how I could; I did not think that the property in Port Angeles was worth any more than it was assessed at, that I did not feel like I would take the whole town for the assessed value.

Q. What is the last?

A. I told him I did not think I would take the whole town at its assessed value. He asked me if the fact of this large mill coming there, if I did not think I could find some way by which I would give him such a letter and I told him if I did I would have to do it against my own judgment. He made lots of suggestions of development that he knew was going to be there. He urged me very strongly to try and help the Elks out. I told him if I could think of any means by which I would give the letter I would call him up on the phone or see before the boat left. About ten o'clock the next morning I called him up and

told him I did not see how I could give him that letter. He said he was very sorry, that it would help him in his business down there. That is the last I ever saw of Mr. Grasty, or heard of him, until I saw him in the court room.

CROSS EXAMINATION

BY MR. EARLE:

Q. Mr. Lotzgesell, I understood you to testify at first that those statements, of Mr. Grasty with reference to his conversation with you were absolutely false, is that right?

A. Yes, sir; in regard to the political ring, and politics running the assessed value of the County; it is absolutely false. I never mentioned politics, or a political ring to Mr. Grasty, nor he did not to me.

Q. Then it was that part of his statement relating to a political ring that you intend to say was false?

A. Yes, sir.

Q. You did, however, have quite a conversation with Mr. Grasty with reference to the assessed valuations, did you not?

A. Not so much to the assessed valuations of property as his assessed valuation practically ran to the Elks' property. That is about the only assessed valuation that he discussed with me.

Q. You stated that you thought the assessments of Port Angeles property, were all right, did you?

A. Did I state what?

Q. Did I understand you correctly in stating to Mr. Grasty that you considered the assessments on Port Angeles property were all right?

A. I told him I thought they were plenty high enough; I did not see how they could be any higher in my judgment.

Q. Did you consider that the property in the entire County was being assessed at the same ratio of its real value?

A. I thought it was as near as could be, as near as we could get at it.

Q. And you considered that the property gen-

erally in Port Angeles was being assessed at the same rate with Sequim and Dungeness acreage, for instance?

A. I thought so.

Q. You think that the agricultural property and the urban property there were assessed at the same ratio?

A. I believe they were, as near as practical, as near as we could get at it.

Q. And this property was assessed at the same ratio as the timber land?

A. I think they were.

Q. Mr. Lotzgesell, are you a timber man; have you had any experience in the timber business?

A. No, sir, I am not a timber man.

Q. Have you ever bought and sold any timber?

A. Not very much.

Q. Had you considered yourself an expert on timber values?

A. No, sir.

Q. While you were sitting on the Board of Equalization, how did you arrive at the value of timber lands from which you were to put your assessments for taxation purposes; how did you arrive at that value?

MR. FROST: We desire to note an objection on the ground that you are inquiring into the mental processes employed by a *quasi* judicial officer.

MR. EWING: And on the further ground that the valuation of timber lands was not made by the Board of Equalization.

THE COURT: The objection is overruled.

MR. RIDDELL: In order to save time the court will note an exception to every ruling of the court sustaining or overruling an objection to testimony.

THE COURT: Yes.

A. I suppose, by using our best judgment; that is my judgment.

Q. Well, to use your judgment you must have had some basis of computation. You say you used your best judgment with reference to those timber

lands; now, how did you arrive at the value at which those lands should be assessed?

MR. FROST: I make the same objection, because the Board of Equalization does not make assessments.

MR. PETERS: It is understood that your objections follow each one of those questions on the same ground.

THE COURT: The objection is overruled. Exception allowed.

MR. PETERS: All objections may be overruled and exception taken, unless we desire to argue them.

A. I do not think I could give any other answer. I used my judgment, what I thought they were; that is all.

Q. Were you a member of the tax payers league, Mr. Lotzgesell?

A. I was.

Q. And you were acquainted with the purposes for which it was organized?

A. Yes, sir; I think I was.

Q. Is it not true, that the taxpayers league was organized, among other things, for the purpose of securing a raise in the assessment of the timber lands?

A. No sir, that is not true.

Q. Do you mean to say that in their meetings and their representations to the Board of Equalization they did not ask for and demand a raise in the assessment of timber lands?

A. Not at their meetings that I remember of; never at their meetings that I remember of.

Q. Did they anywhere?

A. They were down to the Board of Equalization at one time and their conversation was with Mr. Hallahan. I do not know what it was. I did not hear it.

Q. Were you a member of the Board of equalization at that time?

A. Yes, sir.

Q. Did you hear what took place at Board Meetings?

A. I do not think they discovered much in the Board Meeting.

Q. Just leave Mr. Hallahan's part to Mr. Hallahan and ask him the questions direct.

MR. RIDDELL: Don't scold him.

MR. FROST: We desire to enter an objection to this question. The Board of Equalization is a board of record, and the record is the best evidence of any transactions or protest or actions that might have been taken either by the Board or before the Board.

Q. (Question read)

A. They were discussing the general taxation, I think, of all the property. I think, principally, that the farm property was assessed too high, if I remember rightly.

Q. As compared with farm property were they not demanding that the timber assessments be raised?

A. They may have been; I would not state positively that they were not.

Q. Don't you know that that is what happened?

A. That they were demanding a raise on timber lands?

Q. Yes, sir.

A. And nothing else? Just demanding a raise on timber lands.

Q. Were they demanding a raise of timber assessments?

A. They may have been; I would not say they weren't.

Q. You are a member of that organization; don't you know what the purpose of it was?

A. Yes, sir.

Q. Wasn't that the only purpose of the organization?

A. No sir, it was not.

Q. What did they organize for?

A. To try and hold down the assessed value of the County, of the levy.

Q. The "assessed value of the County", do you mean they were trying to hold down the assessed value of the west end of the County?

A. Of the whole county; that is my impression of it.

Q. Will you step down to the map, Mr. Lotzgesell. (Witness stepping to the map) In a general way, you are familiar with these assessment rates, are you not; for instance in this zone here. This states the assessment on the fir, spruce and cedar, and this is on the hemlock.

MR. RIDDELL: Name the zone.

Q. Referring to zone No. 1 on the map, on the Straits zone, on plaintiffs' exhibit "A", at the meeting of the Board of Equalization, protests were made by these plaintiffs, were they not, asking for a reduction of these rates of assessments?

MR. FROST: We object to the question. The record is the best evidence of what happened before the Board of Equalization.

Q. (Mr. Earle) This leads up to the point for which I want to make an inquiry. Those protests were made, were they not, for the reduction of the rate?

A. On the Straits zone?

Q. Take zone No. 2, in which plaintiffs timber is located; an application was made, was it not, for the reduction of this rate?

Q. For the rate on that particular zone?

Q. The rate on the plaintiffs' timber, wherever it might be located?

A. I believe there was.

Q. And in 1914 you raised the rate in this zone, did you not, from seventy cents on fir to eighty cents?

A. No sir.

Q. In 1914?

A. No, sir.

MR. FROST: He is not the assessor.

Q. (Mr. Earle) I should have said that raise was made and you passed upon the plaintiffs' protest and request for a reduction, did you not?

A. Yes sir.

Q. In deciding whether the reduction should be granted to the plaintiff, how did you arrive at your value on this timber?

MR. FROST: We object on the ground that it is inquiring into the mental processes employed by the assessors office.

Q. (Mr. Earle) How did you arrive at that value?

A. The assessor, I suppose, arrived at that value, and we sanctioned his judgment.

Q. The assessor had placed a valuation of eighty cents on it and the Board sanctioned the valuation of the assessor?

A. We did not make any change.

Q. Did you make any tabulation of any figures regarding the value of this timber in deciding whether that cut should be allowed?

A. No sir, I made no tabulation.

Q. You took the rate as had been placed on that by the assessor, and considered that that was all right?

A. Yes, sir.

MR. FROST: We desire to enter the further objection that this is not proper cross examination.

Q. (Mr. Earle) Coming down to this zone No. 4, as it appears on this same map, the assessor had made a raise there of from sixty to seventy cents on fir, and the plaintiffs appeared and asked for a reduction, did they not?

A. I think they did ask for a reduction on the whole. I do not know as they made any difference in any of the zones.

Q. And in passing upon their petition for a reduction how did you arrive at what would be the fair value of plaintiffs' timber in this zone?

MR. FROST: It is understood that the objections go to all this line of testimony?

MR. EARLE: Yes, Mr. Frost, the whole line is objected to by the defense on the same ground as heretofore urged.

A. We thought that the assessor's figures were about right.

Q. Did you go into the value of the logs or lumber; or any of those features to decide whether there should be a reduction or not?

A. I do not think we did.

Q. You found the assessment made by the assessor to be this amount, and you passed upon it, and sanctioned it as all right?

A. Yes, sir.

Q. You upheld the assessor's judgment in the matter?

A. Yes, sir.

Q. Did you make any inquiry into the location of the lands or the grades of the timber or the accessibility or topography or any of these features in passing upon this petition for a reduction?

A. No, sir.

Q. And would your answers be true also of the case of the Ruddock and McCarty timber located here and marked in yellow?

A. Yes, sir.

Q. And your answer would apply also to zone No. 3 as it appears here on zone number five?

A. Yes, sir.

Q. The Board of Equalization knew, did it not, in 1914, that the timber had been raised somewhere around 14%, the assessment?

A. Yes, sir, We knew it had been raised in these zones those figures.

Q. And knowing that this timber assessment had been raised and that the plaintiffs were asking for a reduction in their assessment, did you consider in your own mind whether there had been an advance in the market value of timber lands?

MR. FROST: We do not understand the reason for asking these questions when the court yesterday explicitly ruled them out of order. You were asking what the operation of his mind was, and you used the word "mind", and it is simply encumbering the record with a lot of useless stuff. What mental processes he used, what reasons were in his mind, the Court yesterday to a similar question asked by Mr. Peters sustained the objection.

MR. EWING: I want to add to the objections that we have already made that an inquiry into the

mental processes of the members of the Board of Equalization is not a proper subject for the consideration of the Court for the reason that the Board of Equalization is a quasi judicial tribunal, and the members thereof are subject to the same privileges and immunity as a Court under the law.

Q. (Question read)

A. I did not pay any attention to that.

Q. Was there any discussion by the Board as to whether there had been an increase in the market value of timber lands since 1912?

A. I can't recollect; I can't recall.

MR. PETERS: I asked him if there were any investigations made by the Board as to the grounds on which the timber was raised in 1914, the assessment of it over 1912.

MR. FROST: We made the same objection on the same grounds.

Q. If there was an investigation made by the Board of Equalization in 1914 of why the assessor raised the assessment of timber for 1914 over the assessment of 1912?

A. I cannot recall.

Q. (Mr. Earle) Will you explain the method of assessment and equalization by zones, as those zones appear on the map?

A. Can I explain the method of assessment and equalization?

Q. Yes, sir.

A. No, sir, I cannot.

Q. Have you ever been able to explain it?

A. I don't know as I could explain it."

RE DIRECT EXAMINATION.

On re-direct examination witness says all classes of property in Clallam County were raised in 1914 over 1912. The raises were general throughout the whole county.

"Q. What are the facts with reference to all protestants who appeared before the Board in either 1912 or 1914 being given a full free and fair hearing?

A. They all had a fair hearing and free.

Q. Was anybody denied a hearing, or shut out?

A. No, sir.

Q. What official records had the Board of Equalization before them while sitting as a Board of Equalization?

A. They had the assessors records.

Q. Of what did those records comprise?

A. The assessments of the county.

Q. And what else?

A. All the property in the county I suppose.

Q. They had the cruise books there, didn't they?

A. Yes, sir, they had the cruise books.

Q. Both the timber cruises, and the land cruises?

A. In 1914, most all the land cruises was there, I think. but not in 1912."

Witness says that the Board of Equalization in 1912, consisted of Messrs. Babcock, Hansen, Erickson, Hallahan, and himself. Mr. Babcock, Mr. Hansen and Mr. Hallahan came up for re-election, and the three of them elected. Mr. Babcock Mr. Hallahan and himself, ran at the next election. In 1914 Mr. Babcock was elected and Mr. Hallahan and the witness were defeated.

Witness thinks the Tax Payers League was organized in 1912, and he is still a member of it. He thinks that the object of the Tax Payers League was to hold down assessments and taxes in Clallam County, and to confer with the Board of County Commissioners to hold down the taxes in every way they could. None of the objects of the tax payers league were directed against, or in favor of special classes of property in Clallam County.

In 1914, the assessment was higher; the levy was lower; so the taxes actually paid were less in 1914 than in 1912.

On re-cross examination witness admits the levy was less, because they reduced expenses, but also because the assessed valuation was higher.

"Q. Wasn't because they cut down on expenses?

A. They may have cut down on expenses some.

Q. Take your own road district in the east end

of the County, didn't they cut on the levy or appropriation?

A. Yes, sir.

Q. To the limit?

A. No, they did not cut it to the limit.

Q. They made a very deep cut in the amount of money to spend in the east end of the district?

A. Yes, sir.

Q. And they made a deep cut in the amount of money to be spent in the road district No. 4?

A. Yes, sir.

Q. And they made a large cut in the amount to be spent in the road district No. 3, didn't they.

A. I think so.

Q. And they made cuts in the various offices of the County?

A. I don't hardly think so; whether they made much of a cut in the offices.

Q. Wasn't it the entire program of the Board of County Commissioners at the October meeting directed to economy and a cut in the matter of expenses?

A. Yes, sir, every place they could.

Q. And they made the levy less, didn't they?

A. The levy would have been less anyhow, because I do not think they raised so much money.

Q. That was one of the main reasons why the levy was less, wasn't it?

A. That was one of them."

Witness further states that the assessor raised the assessment in 1914, but the assessor never explained to witness as a member of the Board of Equalization in 1914, why the assessment was raised. The Board did not ask for any explanation. The Board did not consider the reason for the raise. Witness does not think that the only reason for raising the assessment in 1914, was that the levy might be reduced. Witness always contended that it made no difference what property was assessed at so long as it was equal among the county.

"Q. So long as you were on the Board of Equalization you never took into consideration whether the

assessment made by the assessor was higher than it ought to be compared with the fair market value of the property assessed, or was lower than it ought to be?

A. As long as it was equal.

Q. As long as one piece of property was assessed on the same basis as the other?

A. That was the idea.

Q. And you never considered that there was a feature about it at all, whether property as a class was assessed higher than it ought to be or whether property as a class was assessed lower than it ought to be, did you?

A. In different classes, you mean?

Q. You never considered whether farm property was assessed higher than it ought to be assessed, as a Board of Equalization?

A. As long as it was all assessed at the same rate it would make no difference.

Q. As long as all the farm property was assessed on the same proportionate basis you never considered whether farm property as a class was assessed higher than it ought to be or not?

A. As long as the farm property was at the same rate as the timber or the town property we thought it made no difference; at least, I thought it would make no difference.

Q. How did you find out what was the same proportionate rate for farm property and timber property?

A. Used our best judgment.

Q. What comparison did you use; how did the Board determine that farm property at a certain sum per acre was equalized with timber lands at eighty cents a thousand, for instance?

MR. FROST: We renew our objections to that.

MR. PETERS: I consider that it is running all the way through here and the stenographer will please take it down that counsel for the defense renews the objection on all the grounds heretofore stated.

MR. EWING: And on the further ground that the witness has already answered.

Q. (Question read)

A. I could not give any other answer than that we used our judgment; at least I used mine.

Q. You won't undertake to say that the Board of Equalization adopted any measure or entered into any discussion, or any investigation as to how or why the assessor raised the values on timber to a certain rate in 1914 over 1912, or raised the assessment on farm property in 1914 over 1912, or on city property?

A. I could not say any other way, but I supposed that he used his best judgment.

Q. And you all O. Ked it?

A. Yes, sir.

Q. And made no investigation of it, did you?

A. We investigated to see if we thought it was equal.

Q. How did you do it?

A. By going over it.

Q. Take any piece of property and tell me how you found out it was equal?

A. By looking at the books. That was our judgment.

Q. You looked at what books.

A. The assessors books.

Q. You mean those big volumes that he had in here?

A. We did on the farm property.

Q. You looked in those volumes that we had in here?

A. Yes, sir.

Q. And when you looked at them what did you do?

A. Compared one piece with another.

Q. How did you compare it; tell us please.

A. By the amount that he had assessed upon it.

Q. Well, just take any two farms that come up to your knowledge and tell me how he did it.

A. We looked at it and saw what my farm was assessed at and what Dick's farm was assessed at.

Q. Take those two instances, what was your farm assessed at?

A. I cannot recall now.

Q. What was Mr. Dicks farm assessed at?

A. I cannot recall.

Q. How did you compare the two?

A. By our judgment on what we thought they were worth.

Q. And did you compare the assessment of the farm land with the assessment on the timber land?

A. It would be our judgment on what we thought it was worth, I suppose.

Q. And what rate did you consider your farm assessed?

A. At what rate?

Q. Yes, sir.

A. At about fifty per cent.

Q. About what?

A. Something around fifty per cent.

Q. Fifty per cent of what?

A. Of its value.

Q. What was its value?

A. When?

Q. For 1914.

A. I would think it would be in the neighborhood of twenty thousand dollars.

Q. What was it assessed for?

A. I think it was assessed for something like nine thousand.

Q. In 1914?

A. I think so.

Q. What was the case in 1912?

A. I can't recall."

Witness then gives a description of his farm, situated in sections 2 and 4, in Township 30 north, range 4 west. He says he has 139 acres cleared. Witness told Mr. Keeler, a real estate man, that he would take thirty thousand dollars for the land, if he could find anybody fool enough to give it. His land is two hundred and nineteen acres, of which one hundred and thirty-nine acres are cleared. Witness says that all the property in the county is assessed at the same ratio of its real value. He knows of no exception to this.

Witness is a member of the Board of Equalization was familiar with the assessments on the banks of Clallam County. He could not say that he was familiar with the rate at which they were being assessed. "Mr. Hallahan said, that the Banks held property, and it was out of their capital stock, or something of that kind. I could not say that. I could not answer that question." Witness made no inquiry into the assessment of the Banks of Clallam County. The banks, he says, were assessed at the same rate; that is, one bank, the same as the other. Witness could not say that he considered that rate to be the same as the rate on other classes of property.
as the rate on other classes of property.

"Q. In going over those rolls as you say, to determine whether they were all being assessed at the same rate, did you look at the assessments of the banks at all?

A. Yes, sir.

Q. And you considered they were being assessed at the same rate as other classes of property, did you?

A. I could not answer that question intelligently.

Q. Can you answer it at all?

A. Because if the banks have a right to invest in other property they were assessed for that other property; I could not say that they were assessed.

Q. Did you go into that?

A. No.

Q. In going over the assessment of a bank you turned the page and went to something else, is that right?

A. Yes sir.

Q. Did you examine all classes of property in the same manner to see whether the classes of property were being equalized at the same rate?

A. The Bank property I did not know much about.

Q. Did you examine the assessment of shingle mills in the same manner?

A. Yes, sir, compared one with the other.

Q. Did you examine the assessment of the stocks of goods in the same manner?

A. Practically.

Q. And you examined the assessment of agricultural land in the same manner?

A. By comparison, yes, sir.

Q. And timber lands in the same manner?

A. Yes, sir.

Q. Did you ever ask the assessor at what rate, what ratio of the real valuation the Banks were being assessed?

A. No sir.

Q. Did you ever ask him at what rate the stocks of goods were being assessed?

A. I cannot say as I ever asked him direct.

Q. Did you ever ask him about agricultural lands?

A. No, sir.

Q. Or timber lands?

A. No, sir.

Q. Then how did you arrive at your conclusion that the rate of taxation, the rate of assessment, was the same on all classes of property?

A. By using my judgment.

Q. By using your judgment?

A. Yes, sir; that was my judgment of it.

Q. And as I understand you, you used your judgment in this matter of the assessment of Banks by turning over the page and going on to something else?

A. I left that to the assessors judgment.

Q. How?

A. That was the assessor's judgment.

Q. What I want to get at is when it came to the Banks you took the assessor's judgment did you?

A. Yes, sir; his judgment ought to be better than mine on that, I think.

Q. When you came to the assessment of stocks of goods you took the assessor's judgment, did you not?

A. Yes.

Q. When you come to the live stock you took the assessor's judgment?

A. I used my own too, on live stock. I am acquainted with the value of live stock.

Q. In that particular instance you used your own judgment also, did you?

A. Yes, sir.

Q. You took the assessor's judgment, did you, in the case of timber lands?

A. Mostly.

Q. What else did you take?

A. My own judgment too.

Q. Did you have any knowledge of the value of timber, or lumber, or logs, on which to base the assessment?

A. I think I have got a little knowledge.

Q. How is that?

A. Some.

Q. What was your experience in that line of business, did you have any?

A. I bought a little timber and sold a little.

Q. Where did you buy timber?

A. I bought some up close to Sequim.

Q. Did you ever buy any in the west end?

A. No, sir."

REDIRECT EXAMINATION BY DEFENDANTS.

Witness says that when there was a difference of opinion on the Board of Equalization as to the valuation of property, they all talked it over, and argued on it. They went up to Sequim once, he thinks, and looked over the property; thinks the Board also made a trip of inquiry to Port Angeles and looked over the property there in 1914. They went down Front Street, and up the hill through the regrade district, and back down on First Street, and to the court house. There had been protests made about the assessments being too high. The assessor's figures were not changed very much. There may have been a few instances, but the witness does not recall of any. "Q. (By defendants' counsel) You concluded that the assess-

ments made by the assessor were as nearly correct as could be made? A. Yes, sir."

RE-CROSS EXAMINATION BY PLAINTIFFS.

Witness does not think the Board made any change in the figures of the assessment after this visit; does not think they made any change in the assessment on timber lands from the assessor's figures. They did not go out through the timber and look at that after the protests were made.

"Q. On what basis of valuation were the assessments of 1912 made, on the full value of the timber, or any percentage of the value of the property?

A. I could not say whether it was made on any particular basis.

Q. On what basis of valuation was the assessment made for 1914, on the full value of the property, or on a percentage of the value of the property?

A. I could not say that it was any particular basis, the full value, or half, fifty per cent.

(Witness excusid.)"

J. I. KEELER, a witness on behalf of the defendant, testified as follows:

DIRECT EXAMINATION.

Lives at Sequim. Is in the real estate, insurance and brokerage business there, and has been so for twelve years last past; has maintained an office there for three years. Prior to that time he had a hotel, and did the real estate business from the hotel office. Had bought and sold property in Sequim on commission for himself and others. Is familiar with the values in the town of Sequim, and within a radius of eight miles.

Witness says he was in the court room and heard Mr. Lotzgesell testify regarding the offer made him for the purchase of his place. He then details the circumstances of his offer:

"A. Mr. Erickson came to my office and said that he had a client who wished to purchase a large farm in the Dungeness bottom. I told him we had one that I considered was a fair buy, naming the Ward

estate, consisting of one hundred and forty-nine acres, which he could have at fifteen thousand dollars.

Q. Were there any improvements on that place?

A. Yes, sir. The price of the place was twenty thousand dollars, together with all the improvements, nineteen cows, hay, and crop in the barn, and everything, which was valued at five thousand dollars. I wanted to take him down and look the place over. But he said he would go down himself and look it over. He did so, and came back, and said that he would like to get the Lotzegell place. I told him that he could probably get a better price out of Mr. Lotzegell than I could, and as far as the commission was concerned, between him and Mr. Lotzegell, either I did not care, but he could go ahead and get it. He said, "No, you are doing business here, and I would rather get it through you. You get a price on it." "He says 'I don't know as Frank would give me a price on it.'" I told him "all right." I told him I would call Lotzgesell up and tell him I wanted to see him, and asked him over the phone if he would sell his place. He said, "No, he did not care to sell it." Then I went down to see him some days afterwards and tried to convince him that he could sell his place for a great deal less than it was reputed to be worth and loan his money out and make more interest on it than he did with the farm. He said, that was probably true, and that he was not a banker, that he was a farmer; that he had talked it over with his family, and he knew what he could do with the farm, and he would stay there. I reported to Mr. Erickson. He said, "Get a price on it, without regard to what his price is. Don't jew him down; get a price." I went back to Mr. Lotzgesell, and I says, "Would you take twenty thousand dollars for your place?" And he says, "I dont' want to sell it, that is probably as much as it is worth, but I don't want to sell it." I says, "Will you take thirty thousand dollars?" He says, "If you can find anybody that is damn fool enough to give it, I will." I reported to Mr. Erickson that it

could be bought for thirty thousand, dollars, and he did not take it."

Witness says K. O. Erickson was a former member of the Board of County Commissioners, and of the Board of Equalization.

Witness met Mr. Grasty, and detailed the following interview with him.

"A. There was nothing particular happened between Mr. Grasty and myself. The majority of our conversation was along social lines and bore on the conditions of the country. He told me that he was representing a large financial firm in Portland that were desirous of loaning money. I told him that we would like to interest him in some farm loans there. He said that he would probably be able to arrange matters so that we could work with him in that regard, and I talked about it. He asked me about values. He said that he understood that the land there was worth three or four hundred dollars an acre. I told him such was not the case; that the highest improved land was only worth two hundred dollars an acre, and very little of it worth that. That was about the extent of our conversation in regard to the Sequim Country; and I accompanied Mr. Grasty around for a drive through the country, and down to Port Angeles."

Witness says Mr. Grasty did not want any letter from him. Witness did not tell Mr. Grasty that the timber interests were being taxed in the county too high, or that they were unduly increasing the assessment on timber property in the county, and unduly lowering it on other property in the county for that purpose.

Witness was, and is, a member of the Tax Payers League, was about the first man that signed it. He gives the purposes of the League as follows:

"A. Educational, principally. The principal idea was to educate the people in regard to the manner in which taxes were levied, and the degree to which it was necessary to raise taxes, and why it was necessary to have such an enormous amount. The ordinary individual throughout the County was very ignorant

in regard to the taxation question. All of us were, and we thought that the county was exacting a great deal of money, and we wanted to know why they were, and what it was being spent for, and we organized for that purpose. And in order to get data we appointed committees to confer with the County Commissioners to see if there could not be some sort of retrenchment gone into, if we could not reduce the taxes, not necessarily the valuations, but the levies. It did not make any difference what it was, so that it made our actual cash paid for taxes less. We figured that we had reached the point in the taxation question where there should be some retrenchment along all lines. That was what it was organized for."

Witness says that it was never the purpose of the League, nor there was never any attempt made by the League to unduly increase, or decrease, the assessment on a given kind, or character, or any particular property in the county. The League was never organized or used in support of any particular political candidacy. It never announced any policy.

The only real estate men in the town of Sequim are J. A. Adams, and S. A. Greenfield.

The County Board of Equalization in the years, 1912 and 1914, came to Sequim. Witness conferred with them both times. Witness went around with them.

"A. Some of them came into my office and told me what they were there for and said that they wanted to familiarize themselves with the conditions that existed there relative to the valuations of the different properties, some of which had been—not exactly protested, but complained of, and asked me about where certain lots and things were. I told them I would go out and show them. I went around and showed them some lots that have alleys back of them, and some have not, and some have streets graded in front, and some are out in the woods, the same as in Port Angeles. They went around and made a personal investigation of those certain instances, that their atten-

tion had been called to; and also looked at the improvements."

The Board did not talk with witness about values, but looked over the property and talked among themselves. Witness told them he thought the taxes were too high on certain of his own lots on account of conditions which he submitted to them, giving them the reasons for it. Witness pointed out to them the small area of the town, and secondly, the great value of the immediate corner lots; There is only one corner in the town, and the rapidity with which values decreased as you went away from the corner. And he claimed that they decreased more rapidly than the assessments did. The assessment were placed on the lots at the same ratio all along the whole block for twelve lots, which, as a matter of fact, the lots at one end of the block were worth two or three times what the lots were at the other end of the block; and the cheapest lots were excessively assessed, and the inside lots were under-assessed. Witness says it is hard to place assessments on inside property, and to drop off assessing one lot at five hundred dollars, and the one alongside of it for one hundred. It looks pretty bad, and is seldom done, although in his judgment, it should be done.

The population of Sequim March 1st, 1912, was 300; it is now 500. March 1st, 1914, it was 450. Thinks the Board made changes in the valuations while at Sequim.

Witness's firm has been the agent of the McClay estate for about eighteen months. The highest price at which the property of the McClay estate has been sold is fifty dollars per acre. It has been contracted for, not sold, two pieces. The contracts call for one-fifth cash, and the balance in five or ten years, to suit the purchaser. Witness says that it is not true that any of the McClay estate has been sold for fifty dollars an acre. None of it was sold until 1915. Prior to eighteen months ago the McClays themselves sold one piece of forty acres. The average value of the McClay estate property is fifteen dollars an acre. It is assessed approximately at seven dollars an acre. It

is wild land. It is better than most of the other wild land in Clallam County. There are eight thousand acres in the McClay estate, of which sixteen hundred acres are susceptible to irrigation. That is the most valuable portion of it, and holds up the balance of it. A great portion of the estate lands is not worth five dollars an acre. All the land in this estate lying west of McDonald Creek, and thence across Siebert Creek is worth about six dollars an acre.

Witness is handed plaintiffs' exhibit "R," which is a list of valuations of property furnished by W. K. Ware, a real estate expert for the plaintiff, and witness is asked to refer to the first and second pages, and state whether he has sold any of the land in Section 18, on or about March 1st, 1912, or March 1st, 1914. Witness says that he sold some in the southeast quarter of Section 7, near this Section 18, twenty acres, five acres of it improved. He says, he bought it for twenty-five dollars an acre for another man. Witness admits that Section 18 is practically all cleared, while Section 7, there is very little cleared land on it. The cleared land which he bought did not compare with the cleared land in Section 18. Witness says that there was no difference in the value of the land appraised by Mr. Ware in 1914, from its value in 1912.

Witness refers to the property in section 18 about which the witness Ware had testified to a valuation of \$100.00 per acre in 1912 and \$200.00 per acre in 1914. Witness says that just the reverse is the fact. That it is not worth any more in 1914 than it was in 1912. That it don't sell for any more nor produce any more. Witness states that his firm has sold practically all of the real estate in the town of Sequim during the period of 1912 to 1914 that has been moving. The list furnished by this witness is introduced as Defendant's exhibit "32."

Defendant's introduced exhibit "33" as the testimony of the witness' valuation of the properties as therein shown. Witness swears that these reflect his judgment of such values.

CROSS EXAMINATION BY PLAINTIFF.

“Q. Have you the original of that, Mr. Keeler, the original from which the typewritten copy was made?

A. No, sir, I haven't got it all. I have got a part of it. I haven't the amount of taxes, or anything of that kind. I have my own valuations.

Q. You have a list of your own valuations on all the property that is included in there?

A. No, sir; not all of them; part of them; part of them.

Q. Where is your estimate of the balance that is not included in this exhibit “33”?

A. I did not make any.

Q. Whose statement then is this exhibit “33”?

A. It is my statement.

Q. And yet you say you did not make any copy?

A. No copy of this. I did not retain any copy of it.

Q. Did you dictate it yourself?

A. Yes, sir; I did.

Q. To a stenographer?

A. Yes, sir.

Q. Where?

A. Up stairs.

Q. Here in this town?

A. Yes.

Q. When, three or four days ago?

A. I never was asked to make any estimate or anything until then.

Q. What day did you do it, do you recollect?

A. What day is this, Saturday?

Q. This is Saturday, yes sir.

A. I think I did that Monday.

REDIRECT EXAMINATION.

BY MR. FROST:

Q. Mr. Keeler, in the preparation of this list which contains your statement of the market value of the property, placed upon the descriptions therein contained, did you have with you at the time of dictating it your books and records showing your tran-

sactions and dealings with various properties in and about Sequim?

A. Yes, sir."

Witness further says that in making up this tabulation of valuations, he used his own knowledge of actual sales that had been made, aided by the records of those sales, which he has with him. He has all those books still with him.

"Mr. Peters: I take it that Exhibit "33" is admitted under the stipulation of counsel the same as with respect to the testimony and tabulation of Mr. Ware, one of our own witnesses, with the understanding that it contains a statement by the witness of his judgment of the market values for the years therein stated of the properties therein referred to, and I also take it the tax assessment is in there.

MR. RIDDELL: The assessment is correct.

MR. PETERS: The privilege being reserved to ourselves as to counsel on the other side respecting all the exhibits to check the assessments up at any time before submission to the Court.

I don't know but what it already appears in the record, but we might as well now make this further general stipulation that the admissibility of other tabulated statements of known witnesses with respect to the real estate goes in in the same manner."

Witness says that the actual prices of sales made enter into his estimate of valuations placed on this list, exhibit "33." They entered into it to a large extent, because there had been no great boom in Sequim, and property had not gone up to any great extent. Witness has lived continuously in Clallam County for twelve years, has been there off and on for thirty years. Besides being in the real estate business, he has run a saloon, a saw-mill, a telephone company, a livery stable, general merchandise business, hotel, bakery, store, pool-room, soft drink place, electric light plant and water system; is also a Notary Public, undertaker, and has conducted funerals, and preached services. Witness says, he has never had any knowledge of, or heard any rumors of the con-

spiracies charged in the plaintiffs' bill, and no such understanding or agreement existed.

Witness is handed defendants exhibit "34", which he says is a blue print of the Central part of the town-site of the town of Sequim, which is identical with the blue print used by him for the sale of lots. No sales were ever made at figures higher than those placed on the plot, but sales were made for less for cash. These sales were for ten dollars down, and ten dollars a month; most of them made in 1913. The only lots shown on that plat which were not sold are lots 1, 2 and 3 in block 4. This property was all sold in 1913 and 1914, and in 1914 the witness bought all the lots that were left at a stated price. In politics the witness is a Democrat. This is offered in evidence by defendants as exhibit "34".

On cross examination witness testified as follows:

"Q. Mr. Keeler, would there be any difference in your statement with reference to a matter of fact when made under oath and not made under oath?

A. Would there be any difference as a matter of fact?

Q. Would there be any difference in your statement with reference to a matter of fact were you making the same statement with reference to it not under oath?

A. I might be a little more particular in making a statement under oath than I would if I was trying to sell a piece of land to somebody.

Q. That is what I want to get at. I don't want to draw too fine a distinction; but if you made a statement in the ordinary course of your business with reference to a fact would it make any difference whether you swore to it, or whether you simply made it as an unsworn statement?

A. It would depend entirely on whether I considered it the other man's business what I told him. If he was asking me something that I thought was my private business, or I did not consider he had any right to ask, I would probably tell him most anything, or if I thought he was insincere in his question.

Q. Under those circumstances would you tell him a lie?

A. Yes, sir. I might tell him something else too.

Q. In a business deal, in the ordinary course of your business, and when your statement relates to a matter of fact, would you feel yourself free there to make a misstatement because you were not under oath?

A. No, sir.

Q. In your business transactions would you feel that your statements not under oath could be taken with the same degree of credibility that they would when under oath?

A. If I told a man that such and such a thing was the fact, it would be a fact, or I would consider that it was at the time I was telling him."

Witness says that his hotel property is described as lots 1 and 2, block 1, First Plat of Sequim. This is shown on his tabulated list. It was known as the hotel SinClair. Witness admits that it was contracted to be sold to Mr. Roberts for nine thousand dollars.

This is objected to by counsel for the defense, on the ground that it is no measure of value.

Witness says the date of the contract of sale was the first part of May, 1914. Those are the same lots that he had listed on his exhibit "33" at four hundred and fifty dollars, this being at the top of page 7, of exhibit "33". They are listed at two hundred and fifty for one lot and two hundred dollars for the other lot.

Witness' attention is called to the Cook property in Section 13, township 30 N. Range 3 W. It is listed on page 2 of the witnesses list. There were seventeen acres in the piece. It is the west half of the south-east quarter of section 18, township 30 range 3 west. Witness has it appraised in his list at twenty-five hundred dollars. Witness is aware that this land was sold to a man by the name of Ridgeway, but does not know the consideration, and did not look it up for the purpose of making this list. The witness wrote Mr. Cook for value on the place and Mr. Cook always

had it so high that witness did not have nerve enough to try to sell it to anybody so that he never took a list of it.

Just a few of the valuations on this list are based upon actual sales that witness knew of, possibly ten per cent. Witness thinks about ten per cent of this property has changed hands in the last four years. Witness has been acquainted with about all such sales. Right opposite the Cook place that man Ridgeway's son bought some property from Mr. Baker at about the rate that witness has listed the Cook place at.

Witness is shown by plaintiffs a photograph of Sequim, marked plaintiffs' Exhibit "U" and the following testimony develops:

Q. Do you know the writing on that picture?

A. Yes, sir.

Q. Is that your writing?

A. Portion of it is.

Q. Is your signature there at the end of it?

A. Yes.

Q. Then does all that that precedes your signature constitute your writing?

A. No sir.

Q. What part of it doesn't?

A. Do you want me to read it?

Q. Yes, go ahead and read it.

A. "Values of cleared (emphasis on cleared) rocks picked and level off, also irrigated, carrying perpetual water-rights, two hundred dollars an acre. Assessed at sixty to seventy-five dollars per acre. All lands should have water rights. Sales are often made at two hundred and seventy-five to four hundred for improved lands. J. L. Keeler, Sequim, Washington."

Q. What is the reverse side there?

A. That is a picture in the Sequim prairie district.

Q. What is that red mark on there?

A. That is some figure you placed on there.

A. Yes, probably given in reference to that particular piece of land right there which we were trying to sell.

Q. Do you recognize the piece?

A. Roy Stones.

Q. Roy Stones farm, is it?

A. Yes, sir.

Q. What is the size of it?

A. He has sixty acres altogether. He has two pieces.

Q. Does the statement on the back of the photograph represent your opinion of the value of that at the time you made it?

A. With the improvements everything?

Q. As qualified in your writing there?

A. Yes, sir, two hundred dollars per acre.

MR. EARLE: We offer this in evidence as plaintiffs exhibit "U".

(The photograph referred to received in evidence marked plaintiffs exhibit "U".)

MR. PETERS: Have the witness identify what is his handwriting. What is that which is written by him on there and what isn't?

A. I did not put that "first" on there.

Q. Just read what you put on there and what you didn't place, so the stenographer would get it.

MR. RIDDELL: I think he did read the writing which was his own.

A. That what I read was my own writing. The preceeding is not my writing.

Q. Read so the record will get it what preceds it which is not your handwriting?

A. "Sequim prairie, town of Sequim in center of background. No. 5 to left of center of background. No. 17 to right of picture.

Q. That is not your handwriting?

A. No sir.

Q. All the rest that is on the picture in that exhibit is your handwriting?

A. Yes, sir. This No. 5 and No. 17 refers to something else.

Q. State when you made that writing, what date.

A. I haven't the least idea.

Q. What is this (Showing another photograph)

A. This is the picture of the Dungeness bottoms.

Q. Whose writing on the back?

A. My own.

Q. Is it your entirely?

A. It says "B" Dungeness bottom land. No. 6 to the left."

Q. Read it in the record that part which constitutes your own statement.

A. "Valuation of all cleared land on this photo is two hundred dollars per acre. This has been the value for five years past. Not much being sold as owners desire a good revenue for same. Dungeness bottoms".

MR. EARLE: I offer this in evidence as plaintiff's exhibit "V".

(Photograph referred to received in evidence as plaintiffs' exhibit "V")

Q. MR. Keeler, do these sttements on the back of these photographs represent your opinion of the values on the property shown in the picture?

A. No, sir.

Q. They do not?

A. No, sir.

Q. Then at the time you made this statement on the back of this photograph did you make a misstatement?

A. Not necessarily. I made that statement that the values were two hundred dollars an acre. I did not say that it paid interest on that or anything of that kind. It evidently was made with reference to some sale that I was trying to make.

Q. You say that not much is being moved, as the owners derive a good revenue from the same. How much of this statement is true and how much is false?

A. They do derive a good revenue.

Q. That much is true?

A. Yes, sir, but in my opinion there is not an acre out there worth two hundred dollars. I said the valuations are two hundred dollars, but I did not say they were worth it. I did not say that it is worth two

hundred dollars; I said that the valuations were two hundred dollars per acre.

Q. You said this has been the value for five years past?

A. Yes sir.

Q. Is that true or false?

A. What it has been held at.

Q. Has it been sold at that?

A. No, sir.

Q. Where it has been selling, did they get prices of that figure?

A. I don't know of any that has been sold for anything like that price.

Q. When you say that "not much is being sold as the owners derive a good revenue from it", do you mean that they are deriving such a revenue from it that they are justified in making that sort of a price?

A. No, sir, I do not. I do not believe that it pays four per cent interest on it, let alone, they are not drawing any wages.

Q. This property is being held at two hundred dollars?

A. I do not know what it is being held at. That refers to one piece, the Ward estate.

Q. You say that the valuations of all cleared land is worth two hundred dollars. What did you mean by that?

A. I was trying to sell a piece of land out there, or my partner was. He wrote that first part; and I was endeavoring to assist in the sale of that land.

Q. When you say the value of cleared land is two hundred dollars an acre, what do you mean? Do you mean it is worth that?

A. No, sir.

Q. What does "valuation" mean?

A. There is a difference in what I consider it worth and what other people consider it worth, and what it is being held at. When a man comes in and lists a piece of land with us for sale and he wants so much, we endeavor to sell it for that price.

Q. You mean then, do you, from that statement

that the land shown in this photograph that it is held at two hundred dollars an acre, that it what the farmers want for it?

A. No, sir; I can buy lots of it for less than that.

Q. What did you mean when you said the value was two hundred dollars an acre?

A. I wanted that fellow to pay two hundred dollars. I would not pay two hundred for it.

Q. You are representing to some parties purchasing that that it was worth two hundred dollars and you did not mean that statement?

A. I did not tell him that. It did not put me on oath as saying two hundred dollars an acre, and did not put me on my honor as saying it is worth two hundred dollars an acre.

A. Did you mean to mis-lead this man by making this statement to him?

A. I wanted him to buy that place. I was not asking him two hundred dollars. If you have the letter that went with it, I did not ask him one hundred dollars an acre for it.

Q. You say this has been the value for five years past; what did you mean by that?

A. It was representing to him that he was getting a good buy at less than one hundred dollars an acre for this land.

Q. (Mr. Riddell) Do I understand that there was a letter that went with that?

A. I think probably there was. I do not know under what conditions that was got; but the place that we have been endeavoring to sell in Dungeness bottom, there is only one place we have been trying to sell and that refers to the time when we wanted to make that man think he was getting a good buy.

Q. (Mr. Earle) What did you mean by saying, "Not much is being sold as the owners derive a good revenue from it"? Did you mean that the farmers are holding this property at two hundred dollars an acre and they are not selling very much because they prefer to keep it and get the revenue out of it?

A. I think if they were offered two hundred dollars an acre they would sell it.

Q. You think they would sell it all at two hundred dollars an acre?

A. Yes, sir; be glad to.

Q. This conversation and these valuations refer to this exhibit "V", do they not?

A. Yes.

Q. The property shown being in the Dungeness bottoms?

A. Yes, sir.

Q. If property was listed with you or with your firm, Mr. Keeler, at a certain price and you represented to another man that that price was high, or low, would such a statement be true or false in the ordinary conduct of your business?

A. It would depend on who I was dealing with.

Q. You would be inclined to tell one man the truth and another one something else, is that what you mean by your testimony?

A. Not exactly that, no.

Q. Explain it?

A. Well, if I knew the man, knew who he was, and he was a resident of the section he would get a good deal better bargain out of me than a fellow that I did not know or a man that I was writing to. We do business from a real estate office, I suppose, something like the rest of them do.

Q. (Mr. Peters) Let's hear how they do business; finish your answer.

A. I did finish it.

Q. How is it you were doing business and how do the rest of the real estate men do business?

A. We don't depreciate on the value of property. If a man lists it at a certain price, we endeavor to get that price for it.

Q. That is your explanation, is it?

A. Yes, sir.

Q. (Mr. Earle) And if a customer comes in and you represent to that customer that this price at which the property is listed is a little too high, or is

a fair price, or a little too low, would that statement of yours relative to the price be true or false, or would it depend on whether the man was a friend of yours and lived in the same community with you? As I understand it depends on whether you know him well enough to justify you in telling him the truth?

A. I might tell him the truth and I might lie to him. I try to sell him that piece of property. He can see it for himself, and we show it to him."

Witness has not taken any listings of property in his real estate office for three months because there is not any sale for the land. There is very little land moving. They are confining all their efforts to the McClay estate and when people come in and want to make listings for sale the witness simply makes a note of it and tells the people that they will not ask them to sign a listing and if they see anyone that wants that kind of a place they will send him to the owners and they can make their own deal."

Witness says that the Frank Lotzgesell place was worth March 1st, 1914, about seventeen thousand dollars; that it did not change in value between that date, March 1st, 1914, and July 31st, 1914, and was substantially the same value on March 1st, 1912. Whereupon the following testimony develops,

"Q. And have you stated on the 31st of July, 1914, that that property was worth twenty-five thousand dollars, would that statement be true or false?

A. If I stated that it was that it was for the purpose of making a sale in which I was very much interested.

Q. You have not answered my question.

A. It would be false, in my estimation it was not worth that much.

Q. And it was false on the date you made it, was it?

A. If I said it was worth twenty-five thousand dollars, I said it was worth more than it was.

Q. Do you recognize that letter? (Showing)

A. Yes, sir.

Q. You wrote that, did you?

A. I wrote that letter, yes sir.

Q. You wrote that letter, did you?

A. Yes, sir.

Q. And stated in it—

MR. RIDDELL: The letter speaks for itself.

Q. Read the letter into the record.

MR. RIDDELL: I object to him reading the letter in evidence. It is the best evidence. Introduce it.

MR. PETERS: We offer the letter as plaintiffs' exhibit "Z", and now proceed to read it into the record.

(Reading letter)

"Keeler & Mortland, Investments.

Sequim, Washington.

July 31, 1914.

K. O. Erickson,

Port Angeles, Washington.

Dear Sir:

We have just returned from another call on Lotzgesell. George absolutely will not state a price on his place. However, I succeeded in getting a price on the old place owned by Frank. He will take thirty thousand for it; but will not give a written option. I did not press him as I consider it about five thousand dollars high. He says he will accept that figure any time within sixty days. He has one hundred and thirty-nine acres all cleared, and you know what the improvements are.

Regreting not to have done better and awaiting your further pleasure,

Yours,

J. L. KEELER,

Sequim."

Q. That was your letter, was it?

A. Yes, sir.

MR. EARLE: We offer this letter in evidence.

(Letter received in evidence and marked plaintiffs exhibit "Z".)

Mr. Keeler, do you recognize that letter? (Showing another letter.)

A. No, sir I do not recognize the letter. I may

have written that. That is a typewritten letter not signed by any one.

Q. Does it say "dictated"?

A. It says "Dicteted, J. L. K." But I did not write that.

Q. Did you dictate it?

A. No sir; all the letters Erickson got from me I wrote myself. That is all that I authorized.

Q. (Mr. Peters) Mr. Keeler, this is on your letter head and paper, that you use, the letter of August 12, 1914, isn't it?

A. It is on my letter head, yes sir.

Q. And that is the type of the typewriter that you use, isn't it?

A. I do not use the typewriter.

Q. You have one in your office, don't you?

A. Yes, sir.

Q. You know that is what I mean, don't you?

A. Yes, sir; this may have come from my office, but not from me.

Q. That is what I want to get at. Wasn't that letter written in your office?

A. I do not know anything about it.

Q. What are the initials J. L. K. down below there?

A. It says I dictated it, but I did not.

Q. You did not dictate it?

A. No sir.

Q. When you dictate letters in your office what is the custom of your stenographer?

A. I always sign all the letters that I dictate.

Q. What is the custom of your stenographer in putting any memoranda on the letter to identify who took the dictation?

A. I have no stenographer.

Q. Who does the work?

A. On my typewriter?

Q. Yes, sir.

A. Mr. Mortland.

Q. Does Mr. Mortland put down "Dictated, J. K. K"?

A. I do not think he does. I do not know that he does. He possibly may do it at times. If he does, he generally signs himself."

Witness further says that if this letter was written in his office he has a carbon copy of it. He keeps no letter press copies. The carbon copies are filed in a regular order, filed in chronological order. Witness further says that with reference to this Lotzgesell sale, several other people worked out of his office, and they all tried to sell the property, that witness had listed, and used his office, and they might have dictated this letter, and signed the firm name, and sent these letters out. They might have sent them out over his name. Witness has known of other instances of this kind. Witness did not keep a stenographer in his office in 1914, in connection with his real estate business. Witness would say that the statement in the letter to the effect that the Lotzgesell property was worth two hundre dand fifty dollars an acre was too high a valuation; that it was probably worth one hundred and twenty-five dollars an acre. Witness does not know anything about the value of the barn or the house, or other improvements upon the property. On the Frank Lotzgesell place there was to be no commission from Lotzgesell if the sale was made. K. O. Erickson had offered to pay a commission in addition to the purchase price.

Witness is shown by plaintiffs another letter with his signature, which he admits, wherein the O'Leary five acre tract is said to be worth two thousand dollars. Witness says that is a little optimistic. It is right inside the town. Witness would say that at the time the letter was written, in July, 1914, he could have platted the five acres, and sold it in town lots, probably for two thousand dollars. As acreage, it is worth not over sixty or seventy dollars an acre.

"Q. (Mr. Earle) When you say, Mr. Keeler, that five acres is worth conservatively two thousand dollars, what do you mean by that, as to the actual value, if the conservative value is two thousand dollars, what is the actual value?

A. I mean if he was going to plat it into town lots and was asking me about it, I could get him two thousand dollars out of it if he would plat it into town lots; but in acreage I could not get him over four or five hundred dollars for it.

Q. For the five acres?

A. Yes, sir; it is uncleared and uncultivated. You might as well ask me all about that letter, when you are at it.

Q. That is enough.

MR. EARLE: We offer this letter in evidence as plaintiffs' exhibit "AA".

(Plaintiffs' exhibit "AA" received in evidence.)

Q. Do you recognize that letter? (Showing witness another letter.)

MR. RIDDELL: Do those refer to properties that he valued in his statement?

MR. EARLE: Yes, sir. It is in the townsite.

MR. RIDDELL: Have you valued those properties in your list that you furnished there?

A. Yes, sir. I valued those two eighties of Fitzgerald's.

Q. Did you value the other?

A. The five acres?

Q. Yes, sir.

A. No, sir.

MR. RIDDELL: We object to that.

WITNESS: I recognize the signature.

Q. That was written by Mr. Mortland?

A. I presume so. The signature is Mr. Mortland's.

Q. Then it is his letter, isn't it?

A. I presume so.

Q. Would you say that the statement appearing here that the farm of Lotzgesell is one of the finest farms in Clallam County, and any man who secures it would be most fortunate, is it true or false?

A. It would depend on what he paid for it whether he would be fortunate or not.

Q. You people had this farm listed at a certain price and any correspondence with reference to it must

have passed upon that price; taking your price of thirty thousand dollars, for instance?

A. I think like Mr. Lotzgesell, that he was a damn fool if he gave it, but he would take it if he gave it.

Q. Taking your valuation of twenty-five thousand dollars?

A. I never put a valuation of twenty-five thousand dollars on it.

Q. You stated that the offer of thirty thousand was about five thousand high?

A. I did not say how much more high, either. I did not quit at five thousand. I admitted that I thought it was five thousand high. I did not attempt to say how much more too high, except five thousand.

Q. Did you intend by this statement to mislead your possible customer by saying it was worth twenty-five thousand dollars?

A. I would not have had any scruples about misleading K. O. Erickson.

Q. (Mr. Peters) Mr. Erickson is a citizen also of Port Angeles, is he?

A. A citizen of Mori, Clallam County.

Q. A neighbor of yours?

A. No, sir. Mr. Erickson seen this land, went over it with me, knew all about it, and he is a farmer himself, and he wanted me to put as high a price as possible on this farm so that he could sell it to his people. He was the one that was misleading, and wanted me to aid him in it.

Q. And in order to accomodate Mr. Erickson you did put as high a valuation as possible on it?

A. I did not put any valuation on it. I said that thirty thousand dollars was too high.

MR. EARLE: We offer this in evidence as plaintiffs' exhibit "BB".

MR. EWING: I object to this letter signed by Thomas G. Mortland for the reason it is incompetent, immaterial and irrelevant and not proper cross examination, and hearsay testimony, and for the further

reason that it is not proper impeaching evidence, and Mr. Mortland has not testified in this case.

(Plaintiffs' exhibit "BB" received in evidence subject to the objection.)

Q. (Mr. Peters) Mr. Keeler, referring now to this exhibit "33", which is a list of your valuations of property, would you let me see the original from which you made this?

A. You want my pencil one?

Q. Yes, sir.

A. I have got only a part of it.

Q. Let me see the part that you have.

A. It is the platted portions of Sequim. I just happened to keep them. You will find a few alterations, three or four, or something like that, I believe, in it.

Q. You did not make out any list for the acreage property?

A. There is a list there, but I haven't got it. I just went over the different descriptions of acreage in my mind, and figured on the different tabs, and threw them away as I figured it.

Q. Now, the first manner in which you made up exhibit "33" was to take the various tracts of land and put them down in one column and next to them you put the assessed value in for 1912 in a column, and then your valuation for 1912, and then the assessed valuation for 1914, and your valuation for 1914, is that not a fact?

A. No, sir.

Q. Just how did you make it?

A. I put down my valuations for 1912 and 1914 and the stenographer put down the taxes for it, I believe.

Q. Were the assessments down first?

A. No, sir.

Q. Did you see the assessments at the time you made your valuations?

A. No, sir.

Q. You don't know what they were?

A. No, sir; I made my valuations and they went

over it with the tax books and put down the taxes.

Q. After they had gone over it with the tax book you looked over the list?

A. Yes.

Q. And compared your assessment with the tax valuation?

A. To a certain extent, yes, sir.

Q. That is true, isn't it; you went from the top down to the last?

A. No, sir; I was anxious to see for my own satisfaction how they compared with some assessments, and you will find, if you run through it, that it don't look as if I had paid attention to the taxes, to the assessed valuations, because you will find in some places they are vastly different.

Q. What was it that struck you about that?

A. I put down what I figured was a fair valuation.

Q. What was it you attracted my attention to as showing the differences between the assessed value and your valuation; what is striking about it?

A. I do not think the assessed valuation has much bearing on my valuations there.

Q. That is in many instances your valuations are more than twice the assessed valuations?

A. Yes, sir.

Q. And that is what you are endeavoring to show by the list, wasn't it?

A. I was not endeavoring to show anything only the correct values of realty there under oath.

Q. That is what you were trying to show, to show the correct values of realty?

A. Yes, sir.

Q. What, (Counsel withdrawing exhibits from witness' inspection) would you say was the value in 1912, section 17, tp. 30, range 3, of the northeast quarter of the southwest quarter?

A. I would have to have a map.

Q. I don't want you to.

A. A map; I said I didn't want the list.

Q. Only this map used over here?

A. I have that little one here.

MR. RIDDELL: Would you tell the witness the name of the owner?

MR. PETERS: No.

MR. EWING: Then we object to the cross examination as being manifestly unfair.

A. I want to fix that particular property in mind. There may be three or four different owners in that.

Q. (Mr. Peters) But with the map you can fix it, can you?

A. What did you say it is?

Q. The northeast quarter of the southwest quarter of section 17, township 30, range 3.

A. It is worth about one hundred and twenty-five dollars an acre.

Q. That would be six thousand dollars for the forty, wouldn't it,—five thousand dollars?

A. I don't know. Figure it up. I haven't got a pad; I am not very good figuring in my head.

Q. What would be the value of that in 1914?

A. About the same.

Q. It hasn't changed any?

A. I am not positive whether that is all clear, or not. It is worth about that for that portion cleared in that section; I think there is about ten acres on the north side of that forty that is not cleared; that is, on the hillside.

Q. If you put in your list here, exhibit 33, as forty-five hundred dollars for each of those three years, which would you say now was your best judgment, what you had in the list, or what you put in now?

A. Forty-five hundred dollars.

Q. Why?

A. Because when I made out that list I went over it, over each man's holdings in my mind. I am not positive whether I am placing this forty, whether it is the front forty or the back forty. I wanted to be positive about it. I think, if it is the back forty the ten acres of undeveloped land on it, forty-five hundred dollars would be the proper valuation, and if it is on that paper, that is not right."

MR. EWING: We object to this line of cross examination for the reason that it is manifestly unfair and indicates simply a memory test of the witness, and not a test as to his credibility. If the witness' attention is called to the ownership of these various tracts about which he has interrogated he will give an answer that corresponds to the valuation that he has already placed in his statement; that the whole thing is a small piece of pettifogging.

MR. PETERS: Do you expect to do the only pettifogging in this case?

MR. RIDDELL: No, you had your man Ware who was looking at the valuation and reading it off the map.

MR. PETERS: That was your business to test his recollection. I will leave it to the Court to judge whether it is fair to ask these questions or not, and I will go on with my method of examination. When it comes down to pettifogging I don't try to compete with anybody else.

"Q. Refer to the southeast quarter of the southwest quarter of the same section, township and range?

A. That is worth six thousand dollars.

Q. The southeast quarter of the southwest quarter?

A. What do you mean, of 17?

Q. Yes, sir.

A. The southeast quarter of the southeast quarter of section 17, township 30, range 3, is worth about twelve thousand dollars.

Q. You have it in your list here as thirty-five hundred for each year?

A. You described one hundred and sixty acres, did you not?

Q. I told you, the southeast quarter of the southeast quarter.

A. I thought you said—named the whole one hundred and sixty acres there.

Q. I said the southeast quarter of the southwest quarter.

A. One forty.

Q. Yes, sir; what it is worth?

A. About thirty-two hundred dollars.

Q. What did you think I meant when you said it was worth six thousand dollars?

A. I didn't say six thousand; I said twelve. I meant the entire 160 acres which is owned by one man, MR. E. F. Gerring.

Q. (Mr. Ewing) If it should appear that that is not the Gerring property what would you say about it?

A. I would say that is not right.

Q. Suppose that it was shown that is the Brown property, what would you say about it?

MR. PETERS: Take the northeast quarter of the northeast quarter of section 18, township 30, range 3, what is its value?

A. That is worth from fifty-two to fifty-five hundred dollars.

Q. What would you say in 1914?

A. About the same thing. I am testifying as to 1914, and 1912.

Q. What would you say as to the northwest quarter of the northwest quarter of section 18, township 30, range 3?

A. Well, that is not worth very much. I don't just place that in my mind.

Q. What would you say it was worth?

A. I could not say definitely what it is worth.

Q. You gave a listing to it on your exhibit "33"?

A. I know it wasn't very much.

Q. Would you be surprised to find that you had listed it here at thirty-five hundred dollars?

A. For the forty acres?

Q. The northwest quarter of the northwest quarter; that is forty acres, isn't it?

A. Yes, sir; I would be surprised if I did.

Q. (Mr. Ewing) I want to ask you if you are able to recognize the various properties from the mere legal description of them as read to you by counsel?

A. No, sir, I am not; and furthermore, whenever he asked the description in Port Angeles you said,

"Known as the Morse Building", or known as the Elks Holdings, and when you come to me you don't give me a chance to say. You say "known as a place in which you referred to Mr. Erickson, or the place in which so and so lives", and you allowed them to place them, don't you remember?

Q. (Mr. Peters) You have before you the map giving the sections and quarters, a map with which you are familiar, aren't you, in your lap?

A. Yes, sir, I am familiar with the map, but I can't place all the different values by it, though.

Q. I am sorry, I will go on with my examination.

Q. (Mr. Frost) If you were given the names of the owners of these respective farms and places, would it refresh your memory?

A. Yes, sir.

Q. Do you identify the places on Sequim prairie by legal descriptions, or by the names of the residents and owners of the farms?

A. By the name of the residents and owners. We never describe it by metes and bounds, or any other way.

Q. (Mr. Peters) Well, does the land at Sequim Prairie run somewhat uniform as to its valuation?

A. No, sir, very much the opposite. Two ten acres tracts laying alongside of each other, one will be worth double the amount of the other.

Q. I am reading you from your exhibit "33" just what appears on here, the description that is given here, and I ask you to refer on your map to the thirty acres in the south half of the southeast quarter of section 18, township 30, Range 3.

MR. RIDDELL: Which thirty acres?

MR. EWING: Whose thirty acres is it?

MR. PETERS: I do not know. That is the way he has understaken to testify by this statement.

MR. FROST: The witness also testified that he made it from the records and books.

A. I made it from the owners. I took the various owners and I know what they owned and I made my estimate.

Q. (Mr. Peters) I refer to you this piece of property designated on page 2 of exhibit "33", which is your list of valuations which you describe as thirty acres in the south half of the southeast quarter of section 18, tp. 30, range 3; what did you give as the valuation for that?

A. About thirty-seven hundred dollars, or thirty-seven hundred and fifty dollars.

Q. Is that a fair valuation? Is there any change in the valuation of that?

A. In 1912 and 1914?

Q. Yes, sir.

A. I can't place any change on it unless I knew just exactly which property it was.

Q. Now, you say you identified this property in making out the list by reference to the owners of the property?

A. Yes, sir.

Q. Where did you get a list of the owners?

A. From the records.

Q. From the tax records?

A. Yes, sir.

Q. Then you did see the tax records every time you looked up a piece of property and you could see the owner?

A. Yes, sir.

Q. When you went to make out the list of valuations say of the northeast quarter of the northeast quarter of the northwest quarter of 19, township 30, range 3, you looked up on the tax records of that property and saw whose name it was in, and saw the tax record, and then you began to estimate your values, is that the way you did it?

A. Only in a few instances.

Q. Then where did you get the names of the owners?

A. I have a list of all the names of the owners of east end property.

Q. Where is it?

A. In my office.

Q. Whereabouts?

A. At Sequim.

Q. Didn't you tell me that you made up this list and dictated it in the room upstairs in this Federal Court Building?

A. No, I did not say I made it all out upstairs. I said that is where I made the copies upstairs. I made that original list that you have there out in the hotel".

Witness says that he made this original list out in the Hotel Northern, here in Seattle; admits that he did not have a list of the owners at the Hotel Northern. He did not need it for this list. He did not bring a list of owners up to court with him. He dictated the greater part of this exhibit "33" to one of the defendants' stenographers in the room here in the Federal Court Building.

Witness' attention is then called to the northwest quarter of the northwest quarter of section 19, township 30, range 3, W., and he is referred to his map to identify it. He states the value of this is four thousand dollars. There has been no change in its value. It is only partly cleared. It is worth one hundred dollars an acre, but it is practically in town; less than a half a mile from the incorporated portion of the town.

Witness's attention is directed to the Barrow Donation Claim, shown upon exhibit "33", and described as in section 2, township 30, and section 35, township 31, all in range 4 West, about one hundred and fifty acres. It is worth, he says, one hundred and twenty-five dollars an acre, that is, the cleared portion. The unimproved is not worth five dollars an acre. About eight or nine acres are unimproved. This is the George Lotzgesell property.

Referring to block 1, lots 1 to 6, of Cooks addition, witness says it was worth five hundred and fifty dollars in 1914. Witness says he is not including improvements in this list of his, exhibit "33". Portions of the property in this list, exhibit "33", are improved; and the witness in placing these valuations upon it, has not taken the improvements into consideration. Practically every year since witness has been in Sequim

when the Board of Equalization has come down to Sequim they have come to the witness for information. The board comes down there and looks over the country and drives to the different farms. There was no particular meeting about it. He saw the members of the board in the street, in his office and he went out with them. The board talked and considered different places as they went along. The most the witness did was to locate them and show them where the different property was. They generally come to him for information. On going into the record to look up assessments he found out that in his judgment the highest valuation was placed on the cheapest lots. That some lots are not worth anything and he supposes they have to get them on the roll at something. He has noticed that on town lots in Sequim that the lots which were least valuable and farthest away from the corners would be assessed the highest prices proportionate to their values. That the witness has sold practically every lot in the town, handled them, owned them more or less. He might say he platted the town, that Keelers Plat was the first one ever recorded, and "I am pretty well qualified or I imagine that I am, to place the values on those lots, figuring from what we have sold them at, what we bought them at, interest on the money and taxes that have been paid, etc. That is the way I figure the prices of the lots."

"Q. What was your rule or manner in making that difference?

A. I didn't have any regular rule.

Q. Didn't you call that to the attention of the County Commissioners, or the Board of Equalization?

A. No, sir, I did not.

Q. I thought you said that that was one of the things that you pointed out to them?

A. I do not think I said that I pointed that out to them.

Q. Did you not call that to their attention?

A. I don't think that I did at that time.

Q. What other matters, or what matters did you call to their attention with reference to the assessments?

A. Lots that abutted on streets, that is, those cleared and graded, and lots that didn't. Lots that have an alley way and a mode of egress in front and behind, and lots that hadn't; some lots didn't have any alley back of them. Consequently in my opinion they are worth less. Other lots have a nice wide alley back there that is all cleared up and they are worth more.

Q. And these gentlemen called on you and they got you to go around with them and look at the farms?

A. They didn't get me to; I went. I don't know whether I was welcome or not.

Q. And you talked with them?

A. Not a great deal. I showed them where they were, that is all.

Q. You showed them where they were, and they discussed the taxes with you?

A. No, sir.

Q. They discussed the assessments with you?

A. Very little. They didn't discuss the assessments in my presence much. I understood they were going back to Angeles and discuss the matter there in the Chamber.

Q. If they didn't discuss the things very much how was it that you heard all this that was going on there that you testified to on direct examination?

A. What did I testify to hearing?

Q. Well, there are a good many things that you said they stated at the time.

A. What were they?

Q. I do not know that I can recall them just now.

A. I want one or two of them.

Q. I am not under examination, Mr. Witness.

MR. EWING: And you don't like it when you are, do you?

Q. (Mr. Peters) I didn't mean that in the slightest. One of the things you said was that the Board went around and made a personal investigation of the values and you thought the taxes were too high, and pointed out the small size of the town, the value of the corner lots that you said would be assessed the same, and the excessive assessment was put on the

cheapest lots. You stated at the time or in support of that at that time, that you told these things to the Board of Equalizaion.

A. You have misquoted me there. I did not say that the excessive assessment was placed on the cheapest lot.

Q. You did not?

A. No. You misunderstood that, the same as you did the other. I mean in proportion.

Q. You meant in proportion?

A. That is lots I would consider worth one hundred dollars might be assessed at fifty dollars, and another lot that I only considered worth sixty dollars might be assessed at fifty dollars, and they might both be in the same block."

The Board made no changes in the assessment from 1912 after visiting Sequim. They made a few changes in 1914. In 1914, they practically doubled the assessment on Sequim lots. The people were willing to have them doubled. There was no complaint. They thought they were too low before, and were willing to have them doubled.

Witness says that his hotel property that he contracted to sell for nine thousand dollars has gone into the possession of the purchaser, but the purchaser was talking with him to-day, and would like to give the property back.

Witness' attention is then called by plaintiffs counsel to defendants exhibit "34", the central plot of the town of Sequim, blocks 1, 2, 3, and 4; he says that those lots were sold for one hundred dollars each in 1912 and 1913, a very few sold in 1914. He purchased the last bunch in February of that year. He bought them under contract. He paid five per cent cash. The property which he bought was all of block 2, lots 21 and 22 in block 1 and lots 1 to 12 inclusive in block 3. They sold practically all of the lots marked on this plat. They sold for less than the prices marked. The lots sold for the following prices: Lot 10, a thousand dollars; lot 9, fifteen hundred dollars; lot 8, twelve hundred dollars; lot 4, twelve hundred dollars; lot 3,

fifteen hundred dollars— On this, purchaser forfeited his contract; lot 2, sold for twelve hundred dollars, but this contract was also forfeited; lot 5, for one thousand dollars; lot one was sold for eight hundred dollars, and lot 6 sold for a thousand dollars. These lots were 637 by 301 feet. These lots are not listed in defendants exhibit "33", nor on exhibit "34". In explanation thereof, witness says: "No, sir, because the same prices rule to-day. Q. What do you mean by "The same prices rule to-day? A. We are selling them at the same figure now as marked there". Wherever there is a pencil mark on exhibit 34, that is a correction of the white ink mark.

Q. Referring to exhibit 33 again, what sales of any property in this exhibit can you refer to within the period from 1912 to 1914?

A. You mean of lots?

Q. Of any of these tracts if you will take your list.

A. I referred to all those town lots.

MR. RIDDELL: Let the record show that the witness has a book here, and you can take his original books where he sold the town lots if you want them.

MR. PETERS: Which town lots?

MR. RIDDELL: The town lots that he marked on exhibit 33. You may have it for that purpose if you desire."

Witness is handed exhibit "33" and asked to state what sales of properties on that list he made from 1912 to 1914, or knew the terms of. He says "The east half of the east half of the northwest quarter of the southwest quarter of section 17, township 30, range 3 West, ten acres, were sold in 1912, to C. E. Lonsberg, at one hundred and ten dollars an acre, and another ten acres alongside of it was sold to Mr. Hamilton for one hundred and twenty-five dollars". That was in 1912. Witness has only valued it at a thousand dollars, because, he says, it is not as good as the other ten alongside of it. His valuation, he says, is not based upon his experience with sales, for many times people give more than the land is worth. Some-

times they get it for a little less. "Q. Your valuations are based upon your judgment of what a lot is worth, and not upon the sales upon the market?

A. Yes sir. One ten may be in the marsh, and one may be drained and a ten alongside of it not drained, and if they sell that to a non-resident, and show him the books, or a picture of it, they get a big price for it."

"Q. This exhibit "33" is made up in that way on your own judgment?

A. Actual knowledge of the land, and having been on it and been conversant with it for the past 12 years.

Q. And not from the marks on the property, not at what it sold for?

A. To a certain extent, yes, sir. I think it is a fictitious value quite often, and if it will sell for that it is worth it.

Q. Then if it sold for twelve hundred and fifty dollars, that tract—why did you claim it only worth eleven hundred?

A. Because since then it has grown up with willows. It is in the sub-irrigated district, and he has not cultivated it, and willows have grown up."

Witness further states that other sales known by him were the northwest quarter of the northeast quarter of section 18, township 30, range 3 West, contract to sell for six thousand dollars. Witness places a valuation of it on his list of four thousand dollars.

Objected to by Mr. Riddell for the defendant, because it was not an actual sale.

A small payment was made on it. Most of the high priced sales are on time. That has been the case of the majority of the sales throughout the country for the last three or four years.

Witness is referring to photographs, and states that the Roy Stone place was one that he referred to as being two hundred dollars per acre, that is, including the improvements. He said, "that is a very fine place, highly improved." That is the one that he particularly referred to. These numbers 5 and 7 refer

to properties which he had listed; that is, witness presumes they do. They are in his partner's handwriting. Witness cannot fix the date on which the statements were written on the backs of the photograph of Sequim property. He does not recall having delivered them to Mr. Grasty, but thinks he probably did deliver them; he would not swear that he did not. He wrote on lots of them, and left them in the office, and they gave them out. This was about the spring of 1914. Witness knows that he wrote it in 1914, because they did not have those photographs until March, 1914.

REDIRECT EXAMINATION.

On redirect examination the following occurred:

“Q. (Mr. Riddell) You know K. O. Erickson, do you?

A. Yes.

Q. Do you know his general reputation in Clallam County?

A. Yes, sir.

Q. Is it good, or bad?

MR. PETERS: I object to that as being incompetent, immaterial and irrelevant.

MR. PETERS: And the following question was asked: ‘Q. Do you know his reputation for truth and veracity?’ We made the objection because Mr. Erickson was not on examination, and therefore he could not be impeached.

THE COURT: Mr. Erickson did not testify at any stage of the proceedings, did he?

MR. PETERS: No.

MR. RIDDELL: He is a former County Commissioner, but acted as detective for these men.

THE COURT: The objection is sustained. No one quoted him in giving testimony, did he?

MR. RIDDELL: Yes, sir; Mr. Keeler testified to a conversation with him.

MR. PETERS: I will withdraw the objection. If the Court on a review thinks that Mr. Keeler could impeach the honesty of anybody, I will let it go at that.

Q. Is it good or bad?

A. His word is no good; it wasn't with me."

Witness says that some of the property that he sold in Dungeness is just opposite the property shown in plaintiffs' photograph, exhibit "V," the left hand corner. The witness makes a lead pencil mark on the photograph at the place where it adjoins the property he sold. It was one hundred and forty-nine acres, sold for six thousand dollars, highly improved; included a nice, fine two-story modern house, barn, water system and pumping plant and so forth. The sale was in 1912, to James Dick. This property is near Dungeness, a little over a half mile from the school, and is right on the river. The Roy Stone place is marked on the front of plaintiffs' exhibit "U," with a red mark. The price for this, of two hundred dollars an acre, included all the improvements, a modern house, a barn pumping plant, concrete milk house, private lighting system, and other improvements. (This price did not include live-stock, horses or implements.) These improvements were included in the price of two hundred dollars an acre. The land was valued at one hundred to one hundred and twenty-five dollars an acre. It was assessed at from sixty to seventy-five dollars an acre. It is land of that character that the witness in plaintiffs' exhibit "U" referred to as assessed in that manner.

Referring to witness' sale of his hotel property, he says that besides the lots and the land, the stock, fixtures, buildings, business and everything else were included. He had had the property six or seven years. The good will was included. It was the only hotel there. The sale at \$9,000 had no relation to the actual value of the property outside of a business standpoint. The terms of sale were two thousand dollars cash, and the balance at seventy-five dollars a month. Witness admits the suggestion of defendants counsel that real estate is subject to speculation, the same as grain, in Clallam County.

In listing a property with witness, the owner places a valuation, and witness places a valuation on it. They sell it on commission, and take options, and speculate on real estate themselves. In listing the

McClay estate property, there went with the land whatever timber there was on it, buildings, fixtures of every sort. They had just completed the road through the McClay estate, built at an expense of three thousand dollars. The ten acre piece of the McClay estate which sold at \$50.00 an acre was partly improved and contains the Dungeness Logging Company's headquarters, all their improvements and buildings and logging stuff that is on it. They have their camp on it.

“Q. (Mr. Ewing) In order that any confusion may be eliminated which may have been injected into the record as to the manner in which you made your statement, exhibit “33,” where were you when you put those valuations on?

A. I have been thinking of the valuations,—I was asked to put valuations on property when I first came to Seattle last Wednesday.

Q. Did you have access to the assessment rolls when you did that?

A. I did.

Q. Did you use the tax rolls in making your valuations?

A. I used the tax rolls for the purpose of getting descriptions only.

Q. And for no other purpose?

A. No, sir.

Q. The descriptions and the ownership?

A. The descriptions and the ownership. I could have placed each of the owners and the valuations without regard to the descriptions, but you said you wanted the descriptions and I had to go to the tax rolls to get them.

Q. That is it, we wanted the description away from the assessment roll?

A. Yes, sir.

Q. That is the way you did it?

A. Yes, sir.

Q. Did you make any notes mentally or otherwise from the assessment rolls of the values at the time you made those valuations?

A. No, sir, I did not.

Q. Did you get any valuations on the assessment rolls prior to the time you dictated your statement of valuations to the stenographer in room 420 of this building?

A. No, sir, I haven't yet.

RECROSS EXAMINATION.

BY MR. EARLE:

Q. What is your valuation on the improvements of the hotel property?

A. About thirty-five hundred dollars. I might say, to help you out, that that piece is under assessed in my judgment.

Q. To what extent?

A. Well, that is what I consider the improvements worth, \$3500, and the lot is about \$450.00.

(Witness excused.)"

LEWIS LEVY, a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION.

Has lived in Clallam County for twenty years, in the real estate business; has been engaged so for fourteen years; has bought and sold residence and business property; is familiar with the real property values in Port Angeles.

Witness is handed defendants' exhibit "35," which is a list of property values estimated by him as of March 1st, 1914. He says, the attorneys asked him to place the values on property, and he made out a rough sketch on a piece of paper, of which he thought was his best judgment of values. He did not see the assessment rolls, but made the valuations away from those rolls, and quite independent of them.

"Q. In making the tabulation just describe how it was done. You read your valuations to the stenographer, did you not?

A. I wrote it out on a piece of paper, and she copied it.

Q. The assessment roll valuations were made from the books direct?

A. I do not know how they were made; I did not see it.

Q. So you made, as I understand, no comparison of the estimates of valuations at which you put on the property with the assessment roll?

A. Absolutely none."

Witness says, this list contains a correct statement of his valuation of the property there listed. The same is offered and received in evidence as defendants' exhibit "35."

Witness states that lot 2, block 31, of Norman R. Smith's sub-division, which Mr. Ware, plaintiffs' witness, valued at six thousand dollars, was sold, so far as witness knows, for twenty-five hundred dollars.

On cross examination by plaintiffs' counsel, witness admits that he was not connected with the sale in any way, but knows this only through the statements of Mr. Lauridsen. Objection was made to it as hearsay evidence, and plaintiffs moved to have the answer stricken.

Witness says that he was acquainted with the sale of a part of lots 7, 8 and 9, block 19, Stratton's sub-division. He sold them and the improvements thereon to a man by the name of Salmon, for the sum of fifty-five hundred dollars. (The witness, Mr. Ware, had placed a value of three thousand dollars on lot 8, and four thousand dollars on lot 9.) The sale was made in the boom time, in the fall of 1912.

Q. Mr. Grasty in answer to a question propounded to him testified as follows:

"Did you talk with any of the citizens in Port Angeles on those occasions when you examined this matter?

A. Yes, sir, I did.

Q. What ones?

A. Mr. Lewis Levy, I should say, was one.

Q. Was he a citizen of Port Angeles?

A. Yes, sir.

Q. Did you ever talk with him on those occasions?

A. Yes, sir.

Q. What was that talk about?

A. The talk was about real estate values in Port Angeles, both assessed and actual.

Q. What was the substance of it?

A. Mr. Levy pointed out that the actual value of the property had nothing to do with the assessed value; that the assessments were very low, and that their reasons for keeping the assessments down was for the purpose of not allowing the State and County to take too much money away from Port Angeles in the maintenance of the County and the State. In other words they made it their business to not let anybody get any money out of the city, or out of them that would not inure to their benefit. In other words, anything that did not inure to their benefit out of which they should receive no direct benefit.

Q. Did you get a letter from Mr. Levy along those lines? State your version of your conversation with Mr. Grasty?"

Witness received a letter from Mr. Grasty, saying that he was in the loan business, loaning money, and he wanted to know what chances there were for loaning money, or words to that effect; and witness replied that there were chances to loan money, that there was an Elks Lodge in Port Angeles that wanted money to build a good sized building, and the amount wanted was, he thought, forty thousand dollars; and Mr. Grasty wrote and said that he would come down in a few days to Port Angeles. He arrived in Port Angeles, and came very pleasantly and shook hands, and witness told him about the loan. This was in April, 1914.

"Q. You said he came into the office, now go ahead?"

A. We talked over the matter of loaning the money to the Elks and of course, he made the same statement as in my record there, and he went away and was looking around town, among the different people. He was in my office a number of times on that same subject.

Q. Just what was the subject of his conversation

with you; was it confined just to that Elk Building?

A. Mostly to the Elks Building; I think one other man by the name of Krupp, wanted to get a loan, the same kind of a name that that fellow that manufactures guns for the German army, I believe.

Q. In his conversation with you what inquiries did he make about assessments of the real property in Port Angeles?

A. He did not make any inquiries the first day, if I remember right. He was around town looking around among the different real estate men and in the banks, and then he came back and mentioned this: he says, "How is that that there is so much discrepancy between the assessed value of property and the value which the people put on the property?" "Well," he says, "you know I can't make any loan of that kind unless I have some explanation to submit to my clients. I must give some reason." And he talked on those lines; and he came in and went out at different times, and he insisted on getting some reason, some explanation, so that he could submit it to his clients, he said in order to get a loan. He said, "I have been around town, and I find that your name stands pretty high among the people, and if I have any business here I shall do it through your office." Of course, we talked about different other things, and I said to him,—he still insisted on getting some sort of an explanation, something that he could submit, and I said, "The assessment here is the same as they assess in the State of Oregon or in other places." I said, "If you will look around the other part of the State you will find that the assessment is about the same. That is, Port Angeles is getting just as high assessment on its property as any other town of its size," and he disputed with me on that subject. He says, "No, they don't do it that way in Oregon. They put property away up, away up." Of course, positively I could not say what was done in Oregon; but I knew that Washington was practically the same all over the State, because the tax commissioners of the State, had given Port Angeles and Clallam County a high standing for

its assessed valuations. Well, he kept on insisting on my giving him something; so I didn't know what sort of a letter to give him.

Q. Did he ask you for a letter?

A. He did.

Q. In that conversation that you had with Mr. Grasty, who directed the conversation and indicated the channel that it should follow?

A. It was Mr. Grasty.

Q. What channels was it always directed into?

A. It was directed into the giving of some explanation, something; he must have something. He could not make any loan in Port Angeles unless he had something to explain the discrepancy.

Q. What if anything, did Mr. Grasty say to you about the difference between the assessed and the actual value upon your building on the corner of Laurell and Front Street?

A. He did not say anything.

Q. In Mr. Grasty's testimony he testified as follows: "Q. Was the building there referred to the building that you have yourself referred to as being located on the corner of Laurell and Front Street?

A. Yes sir, it is a frame building. Q. What further conversation did you have with Mr. Levy on this subject?

A. I had several conversations with Mr. Levy with respect to receiving applications for loans; and in this connection I naturally had to take up the subject of the actual and real values of the property, which, of course, brought out the fact that the assessed value, and the real value were so far apart—Well, it was rather remarkable."

A. Well, he asked me for an option on my corner. He said he could make a sale. At first I didn't care to give him any option, and finally I concluded I would give him one, let him make a try and see whether he could sell it, but as to valuation assessments or actual value, or ratio on that corner proposition, it was never mentioned.

Q. Now, you say you gave him a letter pursuant

to his request, what suggestion did he make as to the contents of the letter that he wanted you to give him?

A. He didn't make any suggestion as to the contents. I made it up out of my own mind.

Q. Didn't he indicate what the letter should contain?

MR. PETERS: I object to that as leading.

A. He wanted some explanation. He did not seem to care what kind of an explanation I give him. So I had to give him something.

Q. I hand you plaintiffs exhibit "N"; I will ask you to look it over and see whether or not that is the letter which you gave him?

A. That is the letter—that looks like the letter that I wrote.

MR. PETERS: That question refers to plaintiffs exhibit "N"?

MR. EWING: Yes, sir.

Q. (Mr. Ewing) In what way, if at all, had you been connected with the assessors office in Clallam County?

A. Not in the last five or six years.

Q. What county office have you held in Clallam County?

A. I assessed the town in 1910, I believe."

Witness says he believes he assessed the town in 1910, as a deputy assessor; has held no county office since that time; was a democrat, is now a republican; has lived in Clallam County off and on twenty-eight years; is acquainted with Mr. Hallahan, but was deputy under his predecessor, Mr. Govin. Witness knows Mr. Babcock, Mr. Hansen and Mr. Lotzgesell.

Witness never heard of any conspiracies, or combinations charged in the plaintiffs bill. Such does not exist to his knowledge, and never did.

CROSS EXAMINATION

On cross examination witness says he made this memorandum for his list of valuations of Port Angeles property on Wednesday night here in the court house, up in the room used by Mr. Hallahan and others of the defendant, where they had the various books, the

assessment rolls, etc. Witness was furnished a list of property to look at. Counsel for defense states that he himself, furnished the witness with a description of the property on which he desired values. Witness says he didn't look at the copy, but took a lot of sheets that were lying on the table, and wrote out what he believed to be the valuation of property in 1914; had no books to refer to, no sales record, no memoranda what ever. It probably took him a half to three quarters of an hour to write it out. Witness at the time knew that the question in this case was largely one of the fairness of the assessment of Port Angeles property for 1914. He says he did not refer to the assessed valuations of property. He saw no assessed valuations. He did not know what valuations had been placed thereon by Mr. Ware.

“Q. Why didn't you make up the list for assessed valuations of 1912?

A. I could not make out a list.

Q. Why?

A. Because there wasn't any tangible value of property in the city of Port Angeles, March 1st, 1912, and prior years.

Q. It didn't have any value at all?

A. You simply could not make out any tangible value.

Q. How do you mean, “You could not make it”?

A. Because it had no intrinsic value.

Q. It had no intrinsic value whatever?

A. No sir.

Q. And your lot that you offered for sale to this man Grasty for \$30,000 had no tangible value in 1912?

A. It did some, but not exactly what you might call a positive value.”

The flurry in real estate referred to occurred in the fall of 1912, and ceased in the latter part of February, 1913. Values did not then drop clear back to what they had been in 1912, but dropped considerably; but the property was much stronger in 1914, and the latter part of 1913, than it was in 1912. During the flurry some of the values, probably went four or five

times as much as they were worth. After February, 1913, they simply sagged back to what a man might call some sort of tangible value. They remained practically the same until the fall of 1913. He does not think there was any change in value from the fall of 1913, to the spring of 1914, and from the spring of 1914, around to the present time, they remained the same.

This big mill of Mike Earles, the foundation was started in June, 1912. From then they proceeded continuously with its construction, and at the time they started the building of it, it was understood in the community that it was to be a big million dollar property, and it was then supposed to employ from a thousand to twelve hundred men; some people said three hundred. Witness thinks the mill was finished in July, 1913.

The Milwaukee railway started to build into the town in the fall of 1912. They expected to build sixty-five or seventy miles both ways, east and west. The railway was built by the Erickson Construction Company. Some people know that it was the Milwaukee road, others did not. At the same time there was the Olympic Power Company's building. Witness admits that was a great big institution, a million dollars or so involved in that. That began in 1912, and proceeded continuously. It blew out in 1912, but was finished about a year and a half ago. Witness admits that all these three districts did create a labor market, and a real estate market in the fall of the year; but by the spring of 1913, a year before these things were completed, the market bottom fell out.

"Q. Then that was the reason that you did not give any values for Port Angeles City property in March, 1912, because there wasn't any value?

A. There wasn't any value.

Q. You could not give any value then?

A. No sir; you could not positively say that that lot would bring a thousand dollars, because we did not know whether you could get it.

CROSS EXAMINATION

CONTINUED BY MR. EARLE:

Q. Mr. Levy, do you recall the value that you placed on lot 19, of block 15, of the townsite without referring to any memorandum, what would you say that would be, a lot next to the corner of First and Laurel Street?

A. You mean in the down-town district block 15?

Q. Block 15 of the townsite, and lot 19 of the block?

A. \$6000.00.

Q. That would be your idea of the value of it in 1914?

A. Yes, sir.

Q. Were you acquainted with the sale of that lot by Mr. Christensen in the bank there for \$9500.00 in the fall of 1912?

A. Personally I did not know.

Q. You did know that such transfer took place?

A. I do. It was the report, but personally I could not say.

Q. Are you acquainted with Mr. Glines of the Olympic Power Co.?

A. Yes sir.

Q. How long has he been connected with Port Angeles in a business way?

A. Since the power company started, a little while before that.

Q. It was about his first connection with the town?

A. Yes, sir.

Q. Is he intimately associated there with Thomas Aldwell of the Olympic Power Company and others?

A. Yes, sir.

Q. Are you personally acquainted with the sale by John Hansen to Mr. Glines of that property of Mr. Hansen's on the corner of Front and Laurell Street, lots 7, 8 and 9, of block 16, Norman R. Smith sub-division for \$50,000?

A. I have no personal knowledge of that. Of

course there was a report around town. Personally I had nothing to do with it.

MR. RIDDELL: Are these cash sales you are speaking of?

MR. EARLE: Partly cash and partly on time.

MR. RIDDELL: We object to the inclusion of them in the record as not the proper measure of value.

MR. EARLE: If Mr. Glines purchased that property from Mr. Hansen for \$50,000.00, would you say, Mr. Levy, that the lots brought a fair market value?

A. I think they brought a good big price.

Q. Would you think that that was a high price?

A. A lot of old frame buildings."

Witness further states that he has placed the valuation of ten thousand dollars on his lot 1, block 15, and that is the lot that he gave Mr. Grasty the option on at Thirty thousand. Witness sold this lot on the 3rd of July, 1914, for Twenty-five thousand dollars, ten thousand dollars cash, and the balance on eight annual installments, with interest at six per cent per annum. On March 1st, 1914, that property was bringing witness in over two hundred dollars a month rental. In making out his tabulated statement of the values of those properties (exhibit 35) witness knew of lots that could be had for so much money and then placed the value on the rest of the lots just the same. Witness says that he based his estimate of the valuations of these property on the basis of a man having a lot, wanting to sell it, being not compelled to sell it, to a man who wanted to buy and was able to buy, but was not compelled to buy.

"Q. Do you recollect whether in making the assessment on the Port Angeles townsite in 1910, you made any raises, were there any considerable changes made at that time, or did the assessment stand?

A. I think there was, I think I raised it considerably, and I had the people on my back continuously for six months or eight months. I was being kicked clean around from one end of town to another.

Q. That is one of the reasons why you are rated as a "has been" in politics?

A. I left entirely. I have no politics for me. They would not elect me, because if I ran for office they would be afraid I would do something."

The valuations made by witness upon the lots in his list are valuations on the ground values only. Witness thinks that the market value of real estate, while fluctuating back and forth remained practically the same between 1910 and 1912, until the flurry came in 1912.

MR. RIDDELL: You have the original memorandum from which he made this statement. You don't care to cross examine on it?

MR. PETERS: I find they seem to be tabulated in exhibit 35 the same figures as the property in the detailed list of memorandum.

On re-direct examination by defendants, witness says: to the best of his memory, the Mike Earles mill was completed in the first of July of 1913.

Witness was born in Poland; lived in the United States forty years; admits that his English is somewhat broken. Witness is asked by plaintiffs' counsel to explain the terms used by him on cross examination as follows:

"Q. Would the terms be more correctly described by you as to the value, be better terms, "Speculative value," rather than the term used to Mr. Peters?

A. Between what time?

Q. Between the fall of 1912 and 1914?

A. Call it a boom, plainly speaking, speculative, pure and simple; just as you like, but I call it a boom.

Q. You say that there was no standard price, or no standard market value in answer to his question?

A. Before March 1st, 1912.

Q. Wouldn't a better term for that be "stable market"?

A. Standard and stable are the same thing."

Witness being asked to give the full particulars about the sale of lot 1, block 15, of the townsite says: "Mr. Coupler was putting up a building on the end of

the lot that would cost between seven and eight thousand dollars, a concrete and brick building, on a lease with witness, on the terms of rental, sixty dollars a month for the first five years, seventy-five dollars a month for the second five years, and then an appraisal for an additional ten years, and the building to go to the property at the end of the term. The building was put up without any expense to the owner, and was included in the sale referred to.

On recross examination witness says that this lease was made in the month of May, 1914. The space with the Coupler building on is bringing in a rental of three hundred dollars a month.

(Witness excused.)

C. C. HENRY, a witness for the defendants, testifies as follows:

DIRECT EXAMINATION.

Witness has lived at Port Angeles about thirteen years; has been engaged about eight years in selling real estate; says he has done a good deal of real estate business, probably as much as anyone in Clallam County. Witness says he owns probably 950 pieces of real property.

Plaintiffs cross-examined witness as to his competency.

Witness never maintained an office in Port Angeles; does not accept listings on other peoples' property. The most of the property he sells is his own, which he acquired on tax sales. Most of this property is "wild cat" property. Witness knows of a few sales by other owners. His business consists largely in selling property to people by getting acquainted with them, and sometimes he lists property with other people to sell, but he doesn't sell for others on a commission. Witness says that most of this property of his was bought under foreclosure of tax sales.

Witness is familiar with the valuations of real estate in Port Angeles and was familiar with those valuations on March 1st, 1912 and 1914. Witness being asked to state how he handles his business says,

that he buys delinquent tax certificates and when they need to be foreclosed forecloses them and holds the property until he can sell it; thinks he has sold from 150 to 300 pieces of property since he has been up there. Witness has no other business than what he has above detailed. Was a government mail contractor for about eight years. That was his reason for being there.

Witness presents a list of tabulated valuations that he has made, of Port Angeles property, which he says is a fair statement of his opinion as to these values. He says that he made it up by getting the location of a property and putting down his estimate of the value, without reference to the assessment roll. He did not refer to the assessment rolls at all.

The plaintiff excepts to the qualifications of the witness as an expert.

The list is received in evidence as defendants exhibit "36".

DIRECT EXAMINATION. (Resumed)

Witness is asked:

"Q. (Mr. Ewing) A man named Grasty has testified in this case particularly with reference to you as follows:

"Q. Did you meet or talk with a man by the name of C. C. Henry?

A. Yes, I did.

Q. Where did he live?

A. Mr. Henry lives in Port Angeles.

Q. And he has lived there for a great many years?

A. Yes, sir. Mr. Henry came to me.

Q. Did he have property there?

A. Yes, sir.

Q. Any considerable amount of it?

A. Mr. Henry had—well, he stated to me that he came to Port Angeles with four cents in his pocket; that during his residence there he had made forty thousand dollars.

"Q. What, if anything, did he state to you with

reference to the discrepancy in assessed values and actual values?

"A. Mr. Henry submitted to me a list of property in Port Angeles, and also a piece of timber land, timber property, in the western part of Clallam County. This piece of property was twenty miles, this piece of timber property was twenty miles from the ocean. I made it a rule to ask everybody for their tax receipts. I made it my business to ask everybody who applied for a loan to show their tax receipts in order that I might know the actual taxes they were paying. In this connection he was paying taxes on Port Angeles real estate at a valuation around 10% of its actual value, but over in the timber section of the country he was paying taxes over 50% of its stated value; and I said to him, "Mr. Henry, why is there such a wide difference in the assessment of the Port Angeles property, they being so low here, and your being assessed at a much higher rate in the timber section?" And Mr. Henry stated to me, "Mr. Grasty, the officials here have entered into an agreement among themselves to tax the timber interests higher than anybody else in the County. He said they had made it their business to hold their taxes at home down, but to make those rich eastern timber concerns operate. In other words, their object in assessing them so high is to make them cut their timber, and thereby bring benefit to the people of Port Angeles." Do you recall meeting Mr. Grasty?

A. Yes, sir.

Q. Under what circumstances did you meet him?

A. I had never seen him until he came across the street. I met him in the street, and he asked me some of these questions about values, but more particularly, he wanted to loan money.

Q. What are the facts about the conversation that you had with Mr. Grasty?

A. Well, he was quite intent about talking about values, while I was perhaps still more intent about borrowing some money from him. It was at a certain time of the year when I saw Mr. Grasty that I could

use some money at the percentage that he talked about to a very good advantage. It was right prior to June 1st, when I have a few dollars I invest them, and at no other time of the year I can do it so advantageously as that one.

Q. What was that investment?

A. That would be the first of June when they issued delinquent tax certificates.

Q. So, as I understand you, you were particularly interested in borrowing money from him?

A. That was the only thing I wanted with Mr. Grasty.

Q. What are the facts with reference to your having stated as Mr. Grasty testified, that the officials there have entered into an agreement among themselves to tax the timber interests higher than anybody else in the county? He said, "They had made it their business to hold their taxes at home down, but to make those rich eastern timber concerns operate. In other words, their object in assessing them so high is to make them cut their timber and thereby bring benefit to the people of Port Angeles." Did you, or did you not, make the statement to Mr. Grasty that he has ascribed to you?

A. I did not.

Q. Do you own any timber land yourself?

A. Not very much, very little.

Q. Is it taxed on any different basis than any other property that you own in Clallam County?

A. I do not think so. I am not aware that it is. I do notice in the statement that he says that it was assessed at one-tenth the value of the property. I do not believe I ever got such a low rate to me as that. I failed to know about it."

Witness is a republican; has not followed the political campaigns, or kept in touch with them; knows Mr. Hallahan, Mr. Lotzgesell, Mr. Babcock, and Mr. Hansen,—voted for some of them. Witness does not know of, and never heard of any such conspiracy or confederation as is charged by plaintiffs' bill, or rumors

of such; does not think that such agreement or conspiracy existed.

CROSS EXAMINATION.

Witness says he had no talk with Mr. Grasty on the subject of timber assessments; would remember it if he had; had no talk with Mr. Grasty with reference to the rate of assessments in Port Angeles.

"A. My purpose was to get a loan from Mr. Grasty, and I met him coming across the street, and he spoke to me, and he wanted to know if my name was Henry. I told him it was. And he started to talk to me. He mentioned this Elk's loan, but he did not dwell on that so much, and spoke about loaning some money. I tried to negotiate the loan with him on some property that I had, but he did not look upon the property as being valuable enough to loan very much money on, and too scattered. It was not worth enough in his opinion so as to justify him in making me a loan."

Witness admits that he afterwards called on Mr. Grasty at the Olympic Hotel, on Sunday; admits that he might have submitted a list of his property with the values placed on them for the inspection of Mr. Grasty. Witness does not recall having told Mr. Grasty that the witness did not want Mr. Grasty to say anything about what the witness had told him, because it would get witness "in bad" with the people with whom he was doing business; he does not remember saying anything like that to him. He does not remember talking with Mr. Grasty about the timber assessments. Thinks there was one description of timber property in the list hand Mr. Grasty. Witness does not think that he told Mr. Grasty that they had been keeping the assessments down on local property, and keeping it up on timber; would say that he had not so stated to Mr. Grasty. Thinks that the assessment on Port Angeles property was at the same ratio of its value as the assessment on timber; because he felt that it was assessed high enough. Witness submitted a list of valuations of property to Mr. Grasty to get a loan from him. He said that those

valuations were a fair estimate of the market value.

Defendants demand that the plaintiffs produce the list and give it to the witness to testify from, if they have such a list. Plaintiffs state that they prefer to test the witness' memory without such a list at present. Witness was asked whether the valuations he placed on the property at that time were the fair market value, and answers he presumes they would be. They might run a little high.

Witness says that he does not think that he would place a false estimate on property in order to secure a loan on it, but that he would place them high enough, not too low. He would mean to be reasonable about it, but perhaps he would be willing to take less for the property than he was valuing it at at the time; thinks he would put them up more than ten per cent above what he would consider the fair market value. Witness admits that he owns lots 4 and 5 of block 276 of the townsite; thought that they were worth about a thousand dollars March 1st, 1914. He has sold lot 5 for four hundred and twenty-five dollars; thinks the lots were worth about the same. He made this sale after talking with Mr. Grasty; would think the properties averaged in value about the same March 1st, 1914, as they did when witness talked with Mr. Grasty, maybe not quite so much. Witness does not think there has been any increase in property in Port Angeles during the last year. There has not been so much action, but values have not gone down.

Witness's attention is directed to a map showing the property, and he is asked the value of lots 5 and 6, block 380, on March 1st, 1914.

Objected to by defendant on the ground that it is incompetent and immaterial, and that is unfair to subject the witness to such memory tests.

Witness thinks these lots would be worth about six hundred dollars March 1st, 1914. Lots 8 and 9, block 338, would be worth six hundred dollars. I own the property. I know what I would take without looking at anything. Lots 9 and 10, block 189, are worth four hundred and fifty dollars. Lots 7 and 8, block

141 four hundred and fifty, or five hundred dollars; block 437, lots 16, 18, 19 and 20, worth one hundred and twenty-five dollars apiece. That property adjoins the city park. Lot 6, block 57, Layton's Addition, worth one thousand dollars. The east half of lot 16, all of lots 17 and 18, block 6, Colony's Subdivision, worth a thousand dollars, I was asking \$1,000 for that something about that time. Lot 4, block 7, of the same sub-division, two hundred dollars; There is a little draw that runs through that. It is probably worth one hundred and twenty-five dollars. Lot 3, block 9, same sub-division, two hundred and fifty dollars. Lots 1 to 5, 10 and 11, block D, Glovers' sub-division, would be worth one hundred dollars, he would take that. He bought them from Mr. Ware for thirty dollars apiece. Lots 1 to 5, 10 and 11, would be worth seven hundred dollars for the seven lots. Witness says that these values that he has been placing on the property was at the time when he talked to Mr. Grasty, and that they were the same the 1st of March, 1914. He does not think they are worth the same to-day. Witness says that he had some property in township 28 N. range 15W., timber land. He had never seen it. He would think it was worth eight dollars an acre March 1st, 1914.

This question is objected to by defendant as not proper cross examination, and is incompetent, immaterial and irrelevant.

There are fifty-four acres, witness says, in the two pieces. It would be worth to-day about twelve dollars an acre. It would be of the same value, witness thinks, March 1st, 1914. Witness' attention is directed to the property in township 30 N. range 12 W. Section 22, the northwest quarter of the southeast quarter, and the southeast quarter of the northwest quarter; the property is worth six dollars an acre. It is eighty acres, and would be worth four hundred and eighty dollars. Witness does not recall whether he put down on his memorandum submitted to Mr. Grasty, the assessed valuation of the property, or not.

"Q. Didn't he says, or somebody say in this con-

versation, or some of the conversations, that he found a large discrepancy existed between the actual value and the assessed value?

A. Yes, sir; he alluded to that.

Q. And didn't you put down these values and also the assessed value in connection with this discussion?

A. I put my values to him that I claimed the property worth, because that was relative to getting some money from him.

Q. Do you recall how much you expected to borrow from him, or wanted to borrow from him?

A. I really do not.

Q. Was the amount stated at all?

A. I do not think it was. I notice that he did not—I considered that he did not intend to loan me the money.

Q. Well, at the time that you put these valuations down you thought he was going to loan you money, didn't you?

A. Yes, sir; he impressed me that way.

Q. You thought at that time that his talk was genuine?

A. Yes sir, I did.

Q. And he was really going to lend you some money?

A. Yes, sir.

Q. What was the amount that you were asking him for at that time?

A. I do not remember.

Q. I will hand you this list to which attention of counsel has been directed at the time you were asked these questions as to value, and ask you if that is your handwriting?

MR. EWING: The attention of yourself has been directed?

Q. In saying, "attention of counsel" I mean that counsel for plaintiff have had it before them in asking you the questions and it was not exhibited to you. He has not presented it to you, and you are asked whether that is your handwriting, those figures?

A. Yes, sir; those figures are.

Q. And the description all is?

A. Yes, sir.

Q. Everything except that that is written in the pencil at the bottom?

A. Yes, sir.

Q. Both columns of figures were yours?

A. I think so.

Q. And they were written by you at that time?

A. I think so.

MR. PETERS: Just pass it to counsel so they may examine it before I offer it.

MR. FROST: When was this statement made?

A. I do not remember the exact date, but it was at the time when Mr. Grasty was there.

Q. Would you say in April, or May, 1914?

A. I do not know.

Q. You have one column marked "assessed valuations"; what year's assessment is represented here?

A. I do not know what year that was.

Q. You do not know whether these figures "assessed valuation" represent the assessment for 1912, or 1914?

A. No, I think 1914, that would be about the time I made it.

Q. (Mr. Ewing) The assessments were not made up at that time?

A. No, for 1912, that would be.

Q. Was there any increase or decrease in the value of property described in here between the first of March, 1912, and the time you had your talk with Mr. Grasty?

A. Not any actual increase. I do not know about the assessment increase. Property would not be worth any more now.

Q. At that time?

MR. PETERS: Excuse me, gentlemen, I was examining the witness.

MR. FROST: That question is improper.

MR. PETERS: That would be orderly when you take him up on re-direct. I understand that the wit-

ness admits that the statement now handed him is his handwriting, and that he made it at the time of one of those conversations with Mr. Grasty.

MR. FROST: The last question I withdraw, if I may.

MR. PETERS: No, let it all stand.

Q. (Mr. Peters) All of it, I understand, is in the handwriting of the witness, except that memorandum which appears to be signed "Grasty", and probably was his memorandum in pencil. I desire to introduce this in evidence.

(Statement above referred to marked plaintiffs' exhibit "CC" and admitted in evidence.)

MR. RIDDELL: That is Mr. Grasty's signature on it, is it?

MR. PETERS: I do not know.

MR. EARLE: It looks like it.

MR. EARLE: (Showing paper) Does that go in as a part of the signature?

MR. PETERS: I do not think that would be.

MR. RIDDELL: If you want the whole thing to go in, if you say this is, we have no objection.

MR. PETERS: He says this memorandum on here is not his. I do not offer that because it has not been identified by him, or vouched for.

Q. (Mr. Peters) You have then the first piece of property on this list with your valuation on as \$800.00, and in the column marked "assessed valuation", you have \$180.00. Now, what was the purpose of your putting down this column of assessed valuations?

A. I presume he required that.

Q. Suppose he did, why did you give it? What impression did it make on you if he required it, when he asked you for it, what impression did it make on you? What did you get it for, in other words?

A. You mean where I got it?

Q. Yes, sir, where did you get it?

A. I would get it off the assessment rolls.

Q. Did you go and get it off the assessment rolls?

A. I certainly did.

Q. Did you get it off the assessment rolls of 1912, or 1914?

A. Upon the date he was there I would think 1912. There would not be much assessment for 1914, but it would be 1912 assessment.

Q. The next item which you gave him was a couple of lots which you valued at \$600.00, and you put those down as assessed at \$170.00? That was much less than half your valuation of the property, wasn't it?

A. Yes sir.

Q. And the next one was valued by you at \$600.00, and you put down the assessment of \$160.00. That was much less than 50% of the value of the property, wasn't it?

A. Well, perhaps the price that I was valuing it at was considerably more than twice as much as the assessment.

Q. That is what I say; it does appear so, doesn't it?

A. Yes, sir.

MR. EWING: We want to enter an objection in there that the comparisons due made between prices fixed by the witness in April, 1914, and the assessment of March 1, 1912, and it therefore affords no proper basis for comparison.

Q. Here is another piece of property on this list that you valued at \$950.00, and you put down its assessed valuation against it at \$230.00. That was less than one-third of your valuation, wasn't it?

A. It was assessed for \$230.00.

Q. That is only \$950.00, valued by you \$950.00, and assessed at \$230.00?

A. I could not help the assessment. I went and copied the rolls.

Q. And the assessment was less than one-third, wasn't it?

A. I paid \$750.00 for that, in cash.

Q. Take this item, you valued this property at

\$700.00, and you put down the assessed valuation at \$165.00, is that not a fact?

A. Yes, sir.

Q. And that is considerably less than—that is about one-fifth isn't it?

A. One-fourth."

Witness admits that land on this list which he has valued at \$1080.00 was assessed at \$740.00. He also admits that the tract described as the northwest quarter of the southeast quarter, and the southeast quarter of the northwest quarter of section 22, township 30, range 12 W. is timber land, and this is valued in witness' list at \$640.00, and is assessed at \$425. Witness admits that the valuations of this listed property aggregate \$7670.00, and that the aggregate assessment was \$2500.00, and that they therefore were assessed at one-third, and less, and that while other lands in this list are assessed at not more than fifty per cent, some of them only one-third of the value that he has placed on them, the timber lands in the list are assessed at at least seventy-five per cent of the values that he has listed them at. Witness says that his property generally in Port Angeles, was assessed at something like 50 or 60% of its value.

Mr. Grasty, he says, in the conversation thought that the townsite property was assessed low. In making reference to those things, he would say that it was assessed lower than the timber lands.

Witness says that he has known Mr. Levy for a great many years. Mr. Levy has been actively in the real estate business, with an office down town. Witness would say that Mr. Levy's judgment as to the value of high class down-town property was better than his own. Witness has been in court during the past week, and has heard the testimony of all the witnesses during that time.

DE DIRECT EXAMINATION By Defendant's

Witness says, referring to the fifty-four acres inquired about in Sections 11 and 12, township 28, Range 15 W. He thinks it is agricultural land, as much as timber land. It is on the Sol Duc River.

Referring to the land in Section 23, Township 30, Range 12 W. Witness thinks there has been a burn upon it.

Witness' attention being called to block 425 of the townsite, says, that he sold two of the lots there in boom times for something like \$225, or \$250 for the two lots. Before the boom, he sold them from \$50 to \$60 apiece.

Referring to lots 4 to 18, in block 66, Laytons sub-division, witness bought them in 1912, for \$1275.

Defendants' counsel calls attention to the fact that they are assessed at \$840.00.

On re-cross examination witness says that he sold the lots in block 425, the first time in 1911.

C. L. HAGGITH, a witness for the defendants, being recalled on direct examination, testified as follows:

Witness being asked to state how he arrived at the value of Hanning Hall, a sale that he testified to, upon the witness stand before, answers:

"A. The property is described as lot 20, block 14 of the townsite. We took an option from Mr. Hansen on the Hanning Hall property at \$10000.00, and sold it for \$10500.00 in the height of the boom of 1912. At that time, or shortly after, the property was rented, the lower floor to the Betx-Larkin Furniture Company for \$25.00 a month, the upper floor was rented to two or three different lodges, and was averaging \$25.00 a month, so that the return from the improvement would not indicate any such value as the property was sold at.

Q. (Mr. Peters) What was the description of that property?

A. Lot 20, block 14, of townsite, the corner of First and Oak streets. Mr. Ware testified that the present value was \$15000.

Q. (By Mr. Ewing) Take the document marked for identification defendants' exhibit "37" and state what it is?

A. This is a list that I compiled at the hotel since I came to this city.

Q. Of what?

A. Of property in Port Angeles showing the assessed valuation for the years 1912 and 1914 with my appraisal for those same years.

Q. Just describe how you made that list?

A. In making this list I had made no previous references to assessments, and attached such values as my judgment dictated.

Q. You made the selection of the property yourself, did you not?

A. Yes, sir, absolutely without solicitation, on any particular property.

Q. State whether or not it is a representation of the various districts in Port Angeles?

A. The lots include the most remote blocks, centrally located property, and mid-way residence property.

Q. So it is typical?

A. It is a thorough representation of the property of Port Angeles.

Q. Going back to the manner in which you made this tabulation, have you carefully looked over the tabulation to see whether or not it is correct?

A. The tabulation is absolutely correct.

Q. And it is a correct reflection of your opinion as to the values of the property shown therein?

A. Yes, sir.

MR. EWING: We offer defendants' exhibit "37" in evidence under the stipulation heretofore made in open court.

(Defendants' exhibit "37" received in evidence.)

CROSS EXAMINATION

Witness states that he has been a partner of Thomas Aldwell since 1908.

Referring to defendants' exhibit "37", witness says, that the first and second pages are residence property; also blocks 327 and 341, on page 4, and all of page 5. The lands on page 3 lie west of the present business section, between that and the mill. Block

12 is practically all in the water. The street between blocks 15 and 16 is the center of town to-day, so that block 12 would be 1710 feet west of the present business section at the nearest point. Block 97, at the top of page 4, is unimproved property of a speculative character. It is right down on the tideflats. It is too far out at present to be of any particular commercial value. It was not bought or sold during the last three or four years. Block 14 of the townsite, the front of it, is all in water, that is, lots 1 to 10, and lots 11 to 20 face on First Street. That is the thoroughfare you reach the mill from, the present residence section, the only street running from the business section to the mill. There is none of the down town business property on this list, exhibit "37".

,"Q. And yet you stated that you were left to your own resources and no one suggested what you should cover, that you selected this class of property in order that you might cover, as I understand you, all the classes of property in Port Angeles, is that a fact?

A. Not exactly. In the first place I might say I was handed a list, I think similar to what Mr. Henry put in, including the business section and the tide lands running east known as the Fisher holdings.

Q. Who handed you that list?

A. Some of the attorneys for the defense; I should not say they did; I do not know how I got it; but anyway I asked whether I should fill in the values.

Q. Whom did you ask that?

A. I think Mr. Riddell.

Q. Then you did know where you got it, because you had the list before you when you talked with Mr. Riddell, is that not a fact? You had the list that was furnished you by somebody, and you do not know where you got it, and you took this list, and you asked Mr. Riddell in regard to the list some questions, did you not?

A. Yes sir, I asked him if I should fill in the values on that list, and he stated that inasmuch as that list had been used by a number of parties that pos-

sibly it would be better for me to make an independent list, and there was no part mentioned to me.

Q. Well, then he left you wholly to your own resources, did he?

A. Yes, sir, wholly so.

Q. Why didn't you give us a class representing some of the best pieces of property in Port Angeles?

A. Because, as I say, they told me that the business property had been appraised by a number of different parties.

Q. Who did they tell you had appraised it?

A. I know that Mr. Henry had a list, and Mr. Levy had a list of it.

Q. And who else?

A. I do not know that anybody else.

Q. Did you look at Mr. Henry's list?

A. I did not.

Q. How did you know that Mr. Henry's list covered the business property?

A. Because he told me it did.

Q. Who did?

A. Mr. Henry.

Q. Did you hear Mr. Henry in his examination just now say that he had not talked with anybody that was a witness in this case with reference to the valuations of property, did you hear that testimony?

A. No sir, I did not hear that testimony.

Q. If he did so testify, was he right or wrong in that statement?

A. That there was no conversation between Mr. Henry and I regarding the values that he was placing on the property?

Q. Did he tell you what property his list covered?

A. I saw the list. I saw the list that they had down in the office.

Q. Who had?

A. The defendants attorney in this case.

Q. Who else was looking at the list at the same time you saw it?

A. I do not think anybody was. I think I picked it up off of the table.

Q. Was it the typewritten list?

A. Yes.

Q. You took it away with you?

A. No, sir, I did not.

Q. What did you do with it?

A. I put it back on the table where I got it.

Q. What did that list have to do with the selection and classification of property that you made?

A. Absolutely nothing.

Q. Then you were absolutely independent when you took the classes of property that you did select for your list?

A. Yes, sir.

Q. Then why didn't you take some of the best classes of property, business property?

A. As I said, the business property had already been appraised by more than one person.

Q. Isn't it a fact that you were here during the time that Mr. Tom Aldwell testified, were you not?

A. No sir, I was not. I was at home. I came down last Monday.

Q. Do you know that he has testified of appraising the property in this case, do you not; you know that Tom Aldwell on the witness stand was asked if he did not appraise certain property shown in plaintiffs' exhibit "E", don't you, of which that is a photographic copy, designated exhibit "E" in this case?

A. I presume that he testified as to this.

Q. Don't you know that he did?

A. I haven't conversed with Mr. Aldwell about it.

Q. Don't you know from others that he has testified in regard to that property?

A. I do, yes, sir.

Q. Don't you know that he stated when confronted with that list that he had taken at that time a very optimistic view of the situation?

A. No, sir, I do not.

Q. Haven't you heard that?

A. No, sir.

Q. Wasn't that the reason that you kept off,

intentionally, of the property covered by Mr. Tom Aldwell?

A. No, sir.

Q. You are quite familiar with the city of Seattle and its property, Seattle real estate?

A. No, sir, I am not.

Q. If you were asked to give a valuation upon different classes of property, real property in the city of Seattle, and you were furnished a list, and you would leave out property bounded by Yesler Avenue on the south, and Pike Street on the north, and First Avenue on the west, and Fourth Avenue on the east, would you say that you had given a fair classification of property of the city of Seattle?

A. Well, it would not be proof that I had thoroughly overlooked it.

Q. Answer the question.

MR. EWING: Unless you want to make a record on this particular point we will tell you why that was; if you want to make a record I won't make any suggestion.

MR. PETERS: I would rather make my own record.

Q. (Question read)

A. It would wholly depend on the nature of my report, the thoroughness with which I had prepared it.

Q. That is the purpose for which it was prepared?

A. Yes, sir.

Q. But you were trying to give a person the full and fair statement of the values of property according to their class, that would not be accomplished by such a report, would it, by leaving out the very heart of the town?

A. Well, I would not say it would or would not. If I would ask any local real estate firm for a statement, for their statement, of their ideas of appraisals of property values in this town, and they omitted any particular block, or blocks, it would not necessarily follow that they had not given me a representative appraisal.

Q. Will you say that you did not know that Tom Aldwell had put himself in a hole, or had been put in a hole by this plaintiffs' exhibit "E"?

A. I will say I do not know it.

Q. You know nothing about it?

A. About him putting himself in a hole?

Q. What do you know about it?

A. Since I came up here?

Q. Since you came to the city of Seattle?

A. The first day, yes, sir, I had heard that Mr. Aldwell was confronted with certain price lists of property with values attached that had been prepared for Lewis Wiley and Morse at the time they floated their bonds, and that the values, that the appraisals that he had attached thereto were excessively high, I heard that.

Q. And what else?

A. I heard a good many things.

Q. What else about that?

A. I do not know that I heard anything else pertaining to that.

Q. That is all you heard about it?

A. I would not say it was.

Q. What else did you hear?

A. I would not say that I heard any more, Mr. Peters.

Q. Will you say that you did not hear any more?

A. No, sir.

Q. Then tell us what it was. I don't want you to tell anything that you heard from your counsel."

MR. EWING: Put everything in that you heard from us or from any other source.

MR. PETERS: I don't want to make it embarrassing for you, but I would be glad to hear it as far as that is concerned; because what they say is always interesting.

Q. Now, why is it that you have not mentioned, after hearing that matter discussed with reference to Mr. Aldwell's testimony in regard to exhibit "E" here, why is it that you did not put in any of that property in your list?

A. There was absolutely no reason other than what I state.

Q. Now, what would be your valuation then, for the year 1912 of lot 1, block 1 tidelands west of Laurel Street? and gives the following valuation for property inquired about: Lot 1, block 1, Tidelands west of Laurel Street, without improvements, in 1912, \$12,000.00, and to-day, or in 1914, \$17500.00; lot 2, of the same block in 1912, \$4500.00, in 1914, \$6000.00; lot 10 in 1912, \$5000.00, in 1914, \$7500.00, or \$8000.00. An inside lot in that block in 1912, would be worth \$3500.00, in 1914, \$5000. Witness places a high value on the corner lot, for the reason that those lots are three hundred feet deep, and would permit of stores the full length of that frontage. The value of lot 1, block 15, of the townsite, known as the Lewis Levy building, was worth \$10000 March 1st, 1912, \$12000.00 in 1914. Lot 19, block 15, the Christensen lot, in 1912, was worth \$2000.00, That lot sold in the boom for \$9500.00. The 1st of March, 1914, it was worth \$5000.00. Lot 9, block 1, Tidelands east of Laurel Street, was worth about \$12000 to \$15000.00. It won't pay interest on more than that at this time; March, 1914, lot 1 in the same block would be worth \$7500.00, without improvement. Block 16, of Norman R. Smiths' addition, lot 10, March 1st, 1914, would be worth \$7000.00. That is the Aldwell block. Lot 9 in the same block would be worth \$2000.00 more.

A. You are giving me all corners.

Q. I am trying to pick out a few representative corners here.

A. Let me explain to you my idea of the difference, my opinion of the difference between a corner and an inside lot. Now, you take for instance lot 10 in block 16 that you have just mentioned——

Q. Is that an inside or a corner?

A. That is a corner; it is 140 feet in depth by 50 feet frontage, and as I said before about the Day, the other corner, it forms a frontage of 140 feet. You take the next lot to it, lot 11 is 50 feet frontage only by 140 feet deep, and will permit of but two stores

at the most, and my value of that lot would be worth \$2000.00.

Q. Take the next lot, lot 9 there—the lot what is known as the Hansen property, say, was lot 8, of block 16, Norman R. Smith's Addition, on the first of March, 1914, what would that be worth?

A. The vacant lot would be worth perhaps \$5000.00.

Q. And lot 7?

A. About the same.

On redirect examination witness testifies: The high school property is described as lots 13 to 18, block 55, lot 1 to 6, and 13 to 18, in block 68, lot 4 to 15 in block 67, being in Taylor's sub-division, thirty lots. It is adjoining the present court house property. It is about six hundred feet away from the center of town. As compared with surrounding property it is on a par with surrounding blocks. That property was sold for \$6200.00, thirty lots, early in 1912. Mr. Ware represented the administrator of the estate. The thirty lots were 50 by 140 feet each, making about five acres. The sale was not an administrators sale, but was a sale by the heirs, who were non-residents.

(Witness excused.)

JOHN HALLAHAN, recalled on behalf of the defendants, testified as follows:

DIRECT EXAMINATION

Witness says that he didn't make the assessment of the shingle mills of Clallam County, that they were made mostly by deputies. He does not know the condition of the mill machinery of the Fillion Saw & Shingle Mill on the first of March 1912, though he knows the mill in a general way. Says that he knows the Hanson & Glenert Shingle mill.

"A. It was like the average small shingle mill of that capacity exposed out on the woods on leased ground subject to be shifted around. They have been cutting timber off the Indian's land down there, and the Indian has not got title yet from the Government, they paying for the timber by the thousand feet as

they cut. The Indians seem to be satisfied and I presume no protest to the Government.

Q. Is it a portable mill?

A. Well, not exactly portable, but it can be moved, like all other mills of that kind. It is a small mill.

Q. What would you say about its condition March 1, 1914?

A. I would not like to answer the question that way, because I did not see it at that time. I have seen the mill before that time, but that particular time I did not see it myself.

Q. Do you know about the Sturdevant and Pellerin Mill?

A. I would say about that, that that mill has been abandoned. There is no more timber in the locality where it has been operated and no particular use for the mill there.

Q. Do you know when it was abandoned?

A. I believe it has not been operated for two seasons, I think.

Q. Was it operated on the first of March, 1914?

A. I don't think so.

Q. Was it on the first of March, 1912?

A. I believe probably it was.

Q. The E. R. Waite Shingle Company, do you know anything about that plant?

A. Yes, sir, a very small plant, one of the smallest in the County.

Q. Do you know what its condition was in 1912?

A. The mill had been through several fires, the machinery had. I think it was burned out twice within six or seven years, and the machinery has been through those fires, and it has been rebuilt and some parts, I presume, were renewed. It is a very small mill. There were only a few men employed in that mill, a very few.

Q. Do you know about the Howell-Hill-Ray Shingle Company mill?

A. Yes, sir; it is a good deal like the others. It is located away back of Port Crescent on the base of a

foothill. There is some timber in a ravine that runs into the hillside, and they possibly will have timber enough to run them—I am not sure whether they are running this season or not,—but one of the operators told me this fall that they might be able to run two more seasons.

MR. PETERS: We object to what the operators told him last fall. It would be after the assessment.

Q. Do you know about the Skavdal Shingle Mill & Saw Mill Company?

A. Yes, sir, I have seen his mill.

Q. What was its condition on the first of March, 1914?

A. The same condition as the others, without going into the matter technically. The mills are really about the same capacity, some little differences. His mill has burned down.

Q. What would you say about the Brown & Drury Mill.

A. It is located away up on Lost Mountain, close to section 16, and I believe the supply of timber is about exhausted. The owners are in very bad shape financially. There were two parties in that mill, and one of the men died leaving a widow. She had been a neighbor of mine during last winter, and she is now washing clothes for the people living down at Mike Earle's mill for the employees there, and she had to get down to that, and they can't dispose of the mill or the machinery at any price.

Q. The Riverside Milling Company?

A. That is a mill that has changed names quite frequently. I think it is up at Sequim. Does the list show?

Q. No, it does not show where it is.

A. I think it is in the vicinity of Sequim.

MR. PETERS: Mr. Pollock did not testify to that.

Q. The Mason Milling Company, do you know about that?

A. Wes, sir. That mill was called the "Big Four" a number of years ago, and it was quite a large

mill when they located there. They located where there wasn't any considerable amount of timber, and it resulted in a shut-down. The mill has been picked to pieces since that time, until now, I believe, there is very little of it left; one person carrying off a saw, and the other the engine, and another person carrying off a part of it, and I understand the mill has been dismantled. It has been carried away piecemeal.

Q. Was that the condition on the first of March, 1914?

A. I believe that was the condition on the first of March, 1914. There was nothing left to cut shingles of; those mills are all left in the woods, and it would not pay to take them out.

Q. Would you say that of most all of them?

A. Yes, sir. That mill was called the "Big them. The shingle timber in the vicinity of Port Angeles has been about all exhausted, and they would have to move those mills to new locations, and I think it would hardly pay to move that machinery, or, if it was moved, it would be worth very little by the time it reached its destination.

Q. Does that apply to all the mills I have mentioned to you?

A. Pretty nearly all of them, except the Glenert Mill. He might get some little timber for a few years yet; but most of these little mills are located in isolated places where the timber is very scarce.

Q. Do you know the plant of the Port Crescent Shingle Mill?

A. Yes, sir.

Q. What was the condition of it on the first of March, 1914?

A. That is a mill that has been operating, like a good many places, for many years, and it is of larger capacity than any of these except the Fillion's Mill. I believe it is the largest capacity of any mill in the County except Mike Earles' Mill. I believe that it was fairly well kept up, but it is old. In this connection, my understanding of mill machinery is this: that a machine, the life of a machine is about ten years, and

the depreciation is figured accordingly in your calculation. After ten years the mill is supposed to become junk. That is, the machinery is presumed to be junk, and not figured thereafter in your bookkeeping. If you use the machinery for any time after that, it is considered profit. Of course, on all mill machinery there is a pretty severe strain; pieces break; boilers burn out; and the cylinders have to be bored, and if they have to move those cylinders, or the machinery itself, to some place in Port Angeles to bore the cylinders out; in fact, those cylinders have to come to Seattle to be bored, and those mills down there, for that reason are handicapped, and I remember at one time with the city's lighting plant, that I had to come out to Seattle here to get the cylinders bored, and had to shut the plant down for two days until the cylinders were taken here and bored out and moved back again. There were no boring plants down there with capacity to bore the cylinders, and they are working under that handicap. Nearly all of the mills down there are very old.

Q. The Eacrett Mill?

A. The Eacrett Mill and also a donkey engine, that mill is operated by two or three brothers, and they are natural machinists. Now, the engine, the donkey engine has been built up by themselves piecemeal, picked up a piece here and a piece there, and they would come up to Seattle and get parts of it, and they have assembled that machinery themselves. The little old mill is in the same condition. They have built it up piecemeal and got a windmill setting on top of a stump about 40 feet high to pump water for the mill, and they operate probably a few months in the year. There is very little timber where they are. They live near the mill, and they have got their farms surrounding the mill, and it is a side-issue, and in the winter and spring, when they are not busy, they operate the mill.

Q. How is the assessment of the Olympic Power Company made, did you make that?

A. The assessment of the Olympic Power Company was made by me in the year 1914.

Q. Do any other county assessors have anything to do with it?

A. Yes, sir.

Q. What ones?

A. The County Assessor of Jefferson County, and the county assessor of Kitsap County had an assessment, or presumed to have,—I think they have assessments on the power company.

Q. Did you not make the assessment all alone?

A. No. The Power Company is assessed in three counties.

Q. What was the state of completion of the Mike Earles' Mill on the first of March, 1914?

A. On the first day of March, 1914, I believe that was on Sunday, and as I had to put the assessment on the mill for that year for the first time, I felt it my duty, although it was Sunday, to go down there and take a general look around the institution, and I did. The assessment year commenced at noon of that day. I went down there and noticed the condition of the mill. There was very little machinery installed. It was scattered around the plant. The buildings were incompleated, the engines and boilers were not installed, only in part, and the mill itself was in a general way only partly completed. They were starting foundations for new buildings, and so forth.

Q. When was it completed and started in operation?

A. I remember very well that the first steam they got up on the mill was on the 17th day of March, for the simple reason they blew their big whistle on that date, and that was the first time they were able to get up steam and blow the whistle. That is probably all they could do.

Q. When they blew the whistle that stopped the mill?

A. The mill had not started to operate at that time.

Q. When did that start to operate?

A. I think it was in June afterwards.

Q. Notwithstanding the condition the mill was

in on the first of March, 1914, what did you assess it at?

A. I assessed the mill—I probably will have to refer to some figures.”

“Witness: I believe I have the figures. I carried these figures for a year or more in my pocket. They are in concrete form. If you want them in detail, I would probably have to refer to detailed information.

(Referring to plaintiffs’ exhibit “T”)

Q. Now, take that plaintiffs’ exhibit “T” and state what corrections you would make in it. Mr. Hallahan, figure up the total assessments?

A. I have got the totals here which will serve any purpose you might want, in three items. I have got it briefed down. I briefed it up for the Board of Equalization last year.

Q. Give me the item.

A. My estimated number of acres included within his holdings on the first of March, 1914, were 30 acres. These, however, were only estimated, and probably very close to the amount. The 30 acres are assessed at \$15930.00. The buildings, and those holdings are assessed at \$33000.00, and all the personal property in the mill was assessed at \$87450.00.

Q. And the total amount is what?

A. Making a total assessment of \$136380.00. That is in round numbers, the assessment placed upon the mill property, and the personal and buildings for 1914.”

CROSS EXAMINATION

Witness believes that he has visited every shingle mill in the county at one time or another.

“A. I did not visit mills with a view of assessing them; but while paying the visits to the mill I always looked at the mill. While I was assessor I always looked at any class of property in going around the country, when I was visiting to those mills. That applied more particularly to a mill. But I always went around a mill and asked questions and kept myself in touch with their general conditions.

Q. Do I understand from your answer that you did not personally visit any of those mills for the purpose of assessment, but that your visits there were made at some other time, and for some other purpose?

A. No, I did not assess any mills myself excepting the Earl's mill. The mills were all assessed by the deputies. I went over their lists when they were brought into the office, and having previously visited those mills I could tell very well if the deputies were doing the full measure of their duty in placing the assessment.

Q. From your knowledge of the conditions down there would you say there has been any improvements in the shingle mill business, or in those particular properties since the first of March, 1914?

A. Any improvements in the mills themselves?

Q. Yes, sir; would you say that there has been an improvement or no improvement?

A. No, I do not think there has been any improvement, because most of the mills since that time have been shut down; and a mill that is shut down is deteriorating quite rapidly, it deteriorates when it shuts down. I believe those mills are really over assessed; because I find for the four years I have assessed those mills I do not think by an examination of the books it will show that I have allowed little, if anything, for depreciation, and if you will go back four years you will find probably I had the same assessment on the mill that I had four years ago when it was assessed, and that it was assessed at about the same price in 1914. They manage to keep the mills going and turning out the same quantity of shingles as they were several years before, still machinery is wearing out all the time and being renewed and replaced.

Q. At the time you made an assessment on a mill at what ratio of value did you assess them?

A. I attempted to assess the mills on the same ratio I did all other classes of property in 1912, about fifty per cent."

Witness visited the Mason & Babcock Mill property a couple of years ago. He made no memoranda

of it at the time; looked it over just in a general way. It was assessed by his deputy. He visited the Howell-Hill-Ray Shingle Mill last fall, after it had been assessed for 1914. Didn't visit it before.

Q. When did you visit McKee Box Factory?

A. Several times a year. I visited that mill—if you will be pleased to call it a mill,—I heard the testimony given by your expert witness on this particular mill the other day, and it amused me. Saturday evening on the boat going down to Port Angeles I happened to meet Mr. McKee, one of the owners of the mill, and I asked him——

MR. PETERS: That would not be competent what you said to Mr. McKee, or what he said to you.

A. Here is what he said. (Producing a piece of paper.)

MR. PETERS: It would not make it any more competent if it is on a piece of paper than if he stated it. You know enough for that.

Q. You assessed this McKee Box Factory for \$100.00?

A. I presume for 1914. I have not examined my tax rolls myself, and I do not know what you have on your list.

Q. Did you estimate the value of that to be \$200.00?

A. Yes, sir.

Q. I thought you said your deputy assessed it.

A. My deputy put the assessment on, had the party to sign the sheet, but I examine all the work done by my deputies. It is all examined by me; and if the assessment don't meet with my approval I would have it corrected.

Does not remember the Superior Shingle Mill. He visited the Ecrett Mill last fall.

"A. Last fall.

Q. That was since the assessment?

A. Since the assessment. I visited it too, before.

Q. When did you visit it before?

A. I could not tell you. It is on the road to the

Lakes, and the Hot Springs, and anybody going along there could not help but see it.

Q. Could you see it from the automobile road?

A. Yes, sir.

Q. That is the way you visited it?

A. No, sir; I went down there.

Q. When did you go down there?

A. Sometime in 1913.

Q. What time did you go down?

A. I don't know.

Q. What time of the year?

A. I could not tell you.

Q. Who went with you?

A. Nobody went with me.

Q. What did you go for?

A. What did I go there for?

Q. What examination did you make of the Ecrett Mill at that time?

A. I have known it ever since it was installed.

Q. What examination did you make of it at that time?

A. I have known it ever since it was installed.

Q. The E. R. Waite Shingle Mill, did you examine that?

A. Yes, sir.

Q. When?

A. At the same time.

Q. What same time?

A. 1913.

Q. On this same trip?

A. Oh, no.

Q. Then you did not examine it at the same time as the Ecrett?

A. No sir, not the same date, no.

Q. You examined it the same year?

A. Not probably in the same month.

Q. Did you go down there for that purpose?

A. No, I did not have to, because all those mills are located close to Port Angeles, and occasionally I would take a trip out in the Country and see those mills.

Q. What memoranda did you make?

A. I did not make any.

Q. And your deputy put the value on it?

A. He put the value on it.

Q. Did you change it?

A. I do not remember that.

Q. The Hansen and Glenert Mill, when did you examine that?

A. Last fall.

Q. After the assessment?

A. After the assessment.

Q. Did you examine it before?

A. Yes.

Q. What time?

A. A year before.

Q. What time did you examine it?

A. In the summer.

Q. On what occasion?

A. I was going down to Port Crescent to look over the assessment down there with Mr. Carrigan who is a member of the State Board of Tax Commissioners, and we had to wait for a train and I went down and looked at the mill.

Q. You looked at the Hansen and Glenert Mill?

A. Yes, sir.

Q. Did you make a memorandum of it at that time?

A. No, sir.

Q. Did you give any memorandum to your assessor, to your deputies after he had assessed it?

A. No sir; he was to seek that information himself.

Q. Did you change the valuations at all?

A. I could not tell you. If the valuation were not correct according to my view of the matter I changed them.

Q. Did you change them?

A. I could not tell you. That is too far back to remember.

Q. Then you do not know so far back? You do not remember distinctly when you went down there?

A. Not distinctly.

Q. You tell me you even stepped away or turned for something else?

A. Those experts took a memorandum.

Q. Yet you can't tell me whether you changed the assessment?

A. Certainly, I can.

Q. What deputy assessed it?

A. In what year?

Q. For the year 1914?

A. W. B. Gould.

Q. Is he still with you?

A. I divorced him.

Q. You are not now assessor, are you?

A. No.

MR. PETERS: It was a snap judgment, wasn't it——

Q. Brown & Drury Shingle Mill, when did you visit that?

A. I visited that last fall.

Q. Did you visit it at any time before that?

A. Yes, sir.

Q. When was that?

A. The year before.

Q. On what occasion?

A. I was looking for votes.

Q. What?

A. I wanted to get elected county assessor, and I went up there to see the boys.

Q. You went up to see Brown & Drury's Shingle Mill?

A. Yes, sir.

Q. Did you make any memorandum of it at that time?

A. No, sir. I examined the mill, however, insofar as I was able to examine it. I am not an expert on machinery, and my examination would only be——

Q. Superficial?

A. Superficial in a way.

Q. You would not know yourself very much

about the character or capacity of machinery if you saw it?

A. I would know the capacity. It is common knowledge what the capacity of all those mills are.

Q. You never bought any shingle mill machinery?

A. I did.

Q. Nor sold any?

A. I did.

Q. When?

A. A number of years ago.

Q. In how many instances?

A. In one instance.

Q. That is the only experience you have had?

A. That is the only experience I have had in buying a mill. It is not a shingle mill, but it is just the same purpose I bought an engine and boiler.

MR. RIDDELL: Does that disqualify him from being an assessor?

MR. PETERS: It might have been a coffee mill, or probably a gin mill; I don't know."

Witness says that he visited the Scavdal Shingle Mill last year after the assessment, and the Sturdevant & Pillerin Mill last fall; says he also visited all those mills prior to that. He made no memorandum whatsoever. His deputies went out afterwards, and turned in their values to witness. Witness had no talk with the deputies with reference to what they found about the mills, either before they went out, or after they returned. Witness can't remember whether he changed any of their assessments on shingle mills, or of any other property. I could not remember it. I do not pretend to remember those things. I would go crazy if I remembered one thousandth part of what happened in the assessors office. I do not pretend to do it. Nobody else don't either. Witness says that he went down and looked about the Mike Earles' Mill on first day of March, 1914. He says, they started the building of this mill after the 1st of March, 1913; because he visited the mill-site in March, 1913, and made the assessment; thinks they started to run the mill in June, 1914.

“Q. Did you take any list of the machinery that was down there on the first of March?

A. No sir.

Q. Did you make an examination yourself as to what machinery was there, as to its capacity?

A. No, I was not qualified to do that.

Q. And its probable cost.

A. No.

Q. Did you make any estimate of the belting that was down there, or the shafting?

A. No, sir; I did not itemize anything. I looked around the mill.”

Q. How long were you there that Sunday?

A. I spent most of the day looking around.

Q. Was there anybody with you?

A. No sir.

Q. Did you make a memorandum of it?

A. No sir, I did not.

Q. When did you put down that assessment?

A. I guess the assessment was placed on that mill about a month, I believe, either the latter part of June or the early part of July that same year.

Q. And after looking it over on Sunday morning, March 1, 1914, you never put down any assessment against it until June, 1914?

A. June probably, or early in July.

Q. Early in July, 1914?

A. It may have been.

Q. Let's fix that. Was it in June or July?

A. I would not say positively, but the record would show it. The records in my office will show when the assessment was made. I do not pretend to carry those in my head.

Q. You carry around when they blew the whistles in your head?

A. That was significant.

Q. (Mr. Ewing) Did you take note of the name?

MR. PETERS: When did you make that memorandum? (Showing).

A. I made that memorandum for the information

of the Board of Equalization in 1914. I had the whole thing in concrete form, so they would not have to look over the mill unless they wanted to, or for my own information, or information of anybody that would ask me questions concerning it, and for your information now. (Handing counsel papers.)

Q. You anticipated that, I suppose?

A. Oh, no.

Q. May I see the rest of that?

A. No, you have all you are going to see.

MR. PETERS: The witness is using a memorandum, three sheets.

MR. RIDDELL: No, sir, not that, he didn't use that.

Q. (Mr. Peters) Then you refuse to let me see the paper which you have in your hand at the time you were testifying?

A. That is my private paper.

Q. At the time you were testifying with reference to the assessment of the Mike Earle's mill, you said that you had a memorandum in respect to it, and then gave your testimony, and now you refuse to produce the memorandum which you had in your hand at that time?

A. You have it there and have all the items in front of you.

Q. Do you refuse to produce it?

A. You have it in your hand. You have got it in your hand.

Q. What are those other two sheets of paper which you had at the time and that you inspected at the time you gave your testimony?

A. I did not inspect them. There was no occasion for it.

Q. Do they concern the Mike Earle's mill at all?

A. No sir, they do not concern it, they may have some bearing on it.

Q. Have they a bearing on the information which you had respecting the Mike Earle's mill?

A. Yes sir.

Q. They have a bearing on your assessment of the mill?

A. Yes sir.

Q. And they are a memorandum that you made in connection with your assessment of the mill?

A. They had something to do with it.

Q. At the time you testified a short while ago, this afternoon, in answer to inquiries of your own counsel, or of counsel for plaintiff in this case, you used this memorandum to refresh your recollection, didn't you?

A. No sir, my memorandum is all right there in front of you.

Q. You had read that shortly before, had you not?

A. The contents of it?

Q. Yes sir?

A. No; there is nothing in there that would help me out anyway.

Q. You say they bear upon this question?

A. They have a bearing on it, and they have.

Q. And they have information in there that you had at the time you put down the assessment?

MR. FROST: I object to the witness answering the question half a dozen times; all the memorandum that he has used is at present in the hands of counsel before him, and it is all a memoranda that he made in reference to, or looked at. Any further examination of the witness along this line is frivolous.

MR. PETERS: I want to indulge in a little more frivolity.

Q. This memorandum you tell me contained information you used in assessing this property?

A. Yes sir.

Q. And you refuse to produce it now?

A. The information?

Q. No, memorandum which you have in your hands.

A. It is not a memorandum, it is private correspondence.

Q. (Mr. Frost) Who is it correspondence with?

A. It is correspondence with the county assessors.

Q. Correspondence between whom and the county assessors?

A. Between myself and other county assessors.

MR. PETERS: In regard to this same matter?

A—In regard to the assessment of mills.

MR. EWING: Do you want to include any other county assessors in this conspiracy? There is a good chance. (No response.)

MR. PETERS: You say there was thirty acres assessed at \$15,130?

A. Yes sir.

He didnt' assess any particular building, but lumped them up. No building was then completed, except the shingle mill. The personal property in the mill was assessed at \$87450.00.

“Q. The largest item that makes that \$87450, is implements and machinery?

A. Yes, sir.

Q. Did you make any memoranda of these implements and machinery that day?

A. No, sir.

Q. Or at any time?

A. No, sir.

MR. EWING: I object to that as incompetent, immaterial and irrelevant, and improper cross examination.

MR. FROST: And because the law which regulates the assessment and taxation of property in the state of Washington prescribes the form of the assessment list which shall be used, and that no detailed list or inventory of personal property is required under the Statute for the State of Washington. When he listed it as “implements and machinery,” he has followed the direction of the Statute.

MR. PETERS: Did you make any list of the implements and machinery that you appraised at \$75000?

A. No, sir, they are lumped up in one lump sum.

Q. What were they?

A. They were implements and machinery. In

the assessment of property, the assessor does not count every hammer and monkey wrench and screw driver that is around the premises. If he did he would never get through with his work. The stuff is lumped up.

Q. You looked over the mill-site that day all alone?

A. I looked over the mill-site all alone.

Q. Did you make no memorandum of it at all?

A. Mentally.

Q. Did you determine then mentally to assess it at \$75000?

A. No, sir, I did not.

Q. When did you determine to assess it?

A. I determined to assess it in the month of June, or July, when I made the assessment and put it on the books finally.

Q. After this visit, the 1st of March, 1914, you made no memoranda whatever of the machinery and implements in there, or any other conditions, and you made no memoranda whatever of the machinery and implements in there, or any other conditions, and you carried it around in your head until sometime in June, or July, of 1914, and then you put the assessment on it?

A. Yes, sir, I put the assessment on it.

Q. This is the assessment you put upon it of \$75000?

A. \$75000.

Q. That is on that machinery?

A. On that machinery.

Q. (Mr. Earle) They began the shingle mill first, did they not, in the big mill property; they constructed the shingle mill first, did they not?

A. I believe they did.

Q. And the shingle mill was in operation in May of 1913, was it not?

A. I do not remember when it started up; I do not remember.

Q. Wasn't the shingle mill in operation practically a year before this lumber mill was finished?

A. It might be; I don't remember.

Q. The shingle mill was completed and in operation, wasn't it, on the 1st of March, 1914?

A. Yes, sir.

Q. It was in operation the 1st of March, 1914?

A. I believe I so stated."

ReDIRECT EXAMINATION (By Defendants)

Witness says in regard to the McKee Box Factory that there is not much change in its condition now from what it was March 1st, 1914; that it can be now purchased for two hundred dollars, for Mr. McKee told witness so the other evening.

Plaintiff moves to strike this out as improper.

Witness says the assessment list for 1914 was completed and the footings made up and balanced on the 1st day of Augus, 1914. Nobody had general access to his books or assessments until that date, when the books were first turned over to the Board of Equalization. Witness allowed no examination of the books until they were balanced. Witness says that none of the real estate experts who have testified, or anyone else besides his clerk, Mr. Haines, knew what the assessments were for 1914, until the books were turned over. So that when Mr. Henry was talking to Mr. Grasty and comparing values in April 1914, he must have referred to the assessment roll of 1912 or 1913, for he could not have access to the roll of 1914 at that time.

On re-cross examination, by plaintiffs, witness says, the roll that is turned over to the Board of Equalization is simply a copy of the tax books. Witness began to tabulate his assessments probably the 1st of March, and from the 1st of March 1914 until the 1st of April, he was at work on those books and they were in his public office, and they were kept in the same room that one would have had access to if he came to look at the 1912 or the 1910 assessments. Witness denies that they were open there for anybody's inspection. They were kept in the safe at night.

"Q. But durin business hours they were open to the public and just as free where the public might get

them, as for instance, the books for 1910 or 1908, or any other previous year?

A. No, sir, they were not. They were different.

Q. How different were they?

A. Because the public did not know what I was doing.

Q. How did you keep them out?

A. I can't explain to you so you will understand how I done it.

Q. I will try to understand, if you explain.

A. All the timber lands of Clallam County were block work, as figured by the thousand feet. I had my clerks figure on those for a long time, on separate forms.

Q. The clerks figured on what?

A. On the assessment of timber. I had a form to figure this thing out on."

"A. They were figuring the amount of timber on each forty acres, as marked in that form, the number of feet of fir, spruce, cedar and hemlock, fir ties, cedar ties, hemlock ties, and poles, and they figured it out, each item, and the total below, and add the price of the land into it, and when that section was completed it was filed away. It was not for the public record at all. It was after the thing was tabulated and all fixed up, then we transferred that into another book called "The Pencil Abstract Record". We put "improved acres" in this column, "fenced acres" in this column, and the value of the land in the next column, the timbered acres in another column, and the assessment on the timbered acres in another column, the number of acres unimproved land in another column, and the assessment, and the total value of the assessment, and the value of the improvements, if any, and aggregated it and transferred that whole bunch over on the tax roll later on."

Q. When were you doing that work from March first to August first?

A. All the time. It is a big job. Every county assessor knows that.

(Witness excused)

JOHN C. HANSEN, recalled on behalf of the defendant, testified as follows:

DIRECT EXAMINATION.

Mr. Hansen states that he was in the court room the other day when Mr. Darwin testified for the plaintiff in this case, and heard his testimony.

"Q. Mr. Darwin said in substance that in an interview with you in Port Angeles sometime in the spring of 1912, that you said to him that you favored the policy of taxing timber holders so high that they would find it unprofitable to long keep their vast tract off the market; will you state just what transactions and conversations you had with Mr. Darwin at that time?

A. Well, I got a telephone message from the Secretary of the Commercial Club, that Mr. Darwin was coming to the city on a certain day, and that I was appointed, with E. A. Fitzhenry, who is now United States Surveyor General for the State of Washington, and M. K. Meade, who was then Mayor of the city of Port Angeles.

MR. PETERS: The plaintiffs make objection to any statement by Mr. Hansen except in answer to the question as to whether he did or did not make a statement imputed to him by Mr. Darwin, and any other inquiry is incompetent, immaterial and irrelevant.

A. We three were to take Mr. Darwin around and show him the country, So we took an automobile that morning, whatever date it was, I do not know, and we started for Lake Crescent. That is in the south-westerly direction from Port Angeles, and twenty miles away, and on the way we stopped at the Olympic Power Company, which at that time was being built on the Elwah River, the roads to Lake Crescent were not in a very good condition; so the question of roads did come up, were spoken about, and when Mr. Fitzhenry, who has been all over the country many times as an engineer, and so forth, he was telling Mr. Darwin that his county had sixty billion feet of timber. Then the

question was referred to me, why we did not have better roads. I told Mr. Darwin that we expected to bond the County that very same fall for three hundred thousand dollars, if it was possible, and about the timber I told him that we had a very small portion of that sixty billion on our tax rolls, and at that time the county had already started to cruise all of the timber and that we had a large portion of logged-off land directly west of Port Angeles, on the way to Gettysburg, and Port Crescent, and that timber there in that direction belonging to Michael Earles had all been moved without a proper cruise having been against it, and that even the logged off land would be so cruised that the County Assessor's office would have a perfect record of every ten acres and that the same policy would extend through the whole County to the Eastern line, farming land and all. And I explained to him then that in 1911 we had attempted to make some raise by the Board of Equalization, but that we were continually confronted with one man saying that this land was good for nothing, and the other man saying it was worth ten or fifteen dollars an acre, so we were absolutely unable to do anything without a better record. And the result of that cruising has placed now the County in such shape that——

Q. What did you say to him about the cruise? This is a part of your conversation with him?

A. Yes, sir, that everything was at that time under-rated, because the assessor's office was in poor condition at that time. I do not know what I said there, but I did not say that anything would be fixed higher than any other article, that this cruise was purposely being made for the purpose of equalizing the taxation all over the County. That is about all. I was in the front seat and Mr. Darwin, and Mr. Fitzhenry, and M. K. Meade, were in the back of the automobile, and the trip took from morning until noon. We came back in time to have our dinner in town at the Commercial Hotel."

Counsel for defendants questions the witness regarding the pleadings. Counsel for defendants reads

to the witness the amended answer to paragraph XXII of the amended bill of Clallam Lumber Company wherein the defendants admit the desires and ambitions of the inhabitants thereof, and the witness states that they naturally have the desire and ambition to have Port Angeles the big metropolis of that part of the country. That that is what they have always been boosting for, but not to force the timber men to operate their plants. That it has never been the intention of Port Angeles people to force any industry to operate. That at the times mentioned in the bill the Michael Earles proposition was already under way and they were raising a bonus for Michael Earles and for the railroad company, but they could not hardly stand any more. That if the Lacey Timber people or any other owner came along and said 'We want you to buy us a site, we want to operate the mill,' they would have had to absolutely turn him down for they could not have done it. They were raising a subsidy to encourage Michael Earles to build a mill to operate. Earles bluffed them into it. That at no time was it mentioned on the part of the inhabitants of Port Angeles that the timber owners of Clallam County should build mills at Port Angeles and construct railroads into the interior and transport logs from the interior into Port Angeles. Witness states that there was a just desire on the part of the inhabitants of Port Angeles that the timber owners of Clallam County should build mills at Port Angeles. That the people are just as anxious to build a city in Port Angeles as British Columbia is to build a city in British Columbia. That there was a desire that the timber people should construrct railroads and transport logs from the interior of the county to Port Angeles, but not unjustly. That so far as the operating is concerned they expect that Clallam County resources will come to Port Angeles when the time comes."

CROSS EXAMINATION.

On cross examination witness being asked whether he did not state to Mr. Darwin that there were sixty

billion feet of timber in Clallam County, said, that the statement had been made, and it has been advertised by different parties all over the United States that Clallam County contained sixty billion feet of timber, although they have a very small portion of that on their tax rolls. He told Mr. Darwin that they were getting a better record, so they would know where they were at, and what they were at. Witness admits that the chief resource of the county is its timber, but not the overwhelming amount. He states that the assessment on the property of Port Angeles in 1914, amounted to \$2,226,000.00; that being one-seventh of the whole assessment, and the farming country in the east end amounts to another million and a half, besides the railroad. The Mike Earles' Mill he admits, amounts to a large piece of capital. When you compare \$13,000,000 to their little two miles square of Port Angeles, assessed at Two million dollars, he says, there is not a twenty miles square area in the west end that is not worth more than that little area of Port Angeles. The Merrill-Ring people, he says, would not trade their portion of the county for our portion at any time.

“Q. Do you recall what this statement of Mr. Darwin, the present fish commissioner of the State, was: “Hansen favors a policy of taxing the timber holders so high that they will find it unprofitable to longer keep their vast tracts off the market.”

A. Our work does not bear that out. Our assessment roll does not bear that out.

Q. I will ask you whether Mr. Darwin in making that statement in the Times newspaper two days after that interview, as testified, stated the truth, or stated what was false?

A. He wrote that.

Q. That is what he said?

A. I didn't write it.

Q. I ask you if when he stated that in that paper and stated it on the witness stand here, whether he was telling what was true, or whether he was telling what was false?

A. His expression there is false, when he says that I favored taxing timber so high—does he say that “they will have to operate it and cut it”?

Q. I am reading it to you in his exact words, “Hansen favors the policy of taxing the timber holders so high that they will find it unprofitable to long keep their vast tracts off the market.”

A. That is not true.

Q. Isn't the substance of it true?

A. No sir, at no time did we go that far, and at that time I did not know enough about timber. I was a new man on the Board, and I was learning.

Q. Didn't you propose to assess the timber high?

A. No, sir, not high.

Q. At what did you propose to assess it?

A. Equally.

Q. Equally?

A. In 1912—I left it entirely to the assessor.

Q. What rate did you assess it at in 1912?

MR. EWING: I object to that on the ground that the Board of Equalization does not fix the assessment. That is a matter that is fixed by the assessor entirely.

Q. What rate did you understand when you were equalizing the rolls in 1912 that the timber land of these plaintiffs and others were assessed at?

A. I could not tell you, that would be the outside zone, and in 1912 the assessor fixed it at eighty cents, for fir, cedar and spruce, eighty cents, and the inside zone seventy cents for spruce, fir and cedar.

Q. But I am asking you at what proportion of its value did you understand that the assessor was assessing the timber land?

A. I did not ask the assessor. I had my own opinion, and I have always gone according to my own opinion. My opinion is that that was assessed at less than one-third at that time.

Q. That that was less than one-third of the value of the property?

A. Yes, sir.

Q. That the timber lands then that were as-

sessed eighty cents on the dollars were worth two dollars and twenty cents?

A. Two dollars and fifty, it was worth it, and two years ahead of that it was worth fifty cents more yet.

Q. Then your idea was that in 1912, with reference to the equalizing of the roll of 1912, that the timber lands that were assessed at eighty cents a thousand were worth two dollars and fifty cents a thousand?

A. Yes, sir.

Q. In 1912?

A. Yes, sir.

Q. How about 1914?

A. In 1914 it was worth just about the same.

Q. Was it worth any more in 1914?

A. Not on the market.

Q. Not on the market?

A. No, sir; it was worth about the same.

Q. In your judgment, when you equalized the roll for 1914, you considered that the timber lands of the plaintiffs were worth no more on the market than they were in 1912 when you equalized them?

A. Just about the same. They were worth more in 1908, 1907, 1909, and 1910.

Q. If they were not worth more in 1914 when you equalized them, then they were in 1912, why did you assess them more?

MR. FROST: I object to that on the ground that it is an improper question, an inquiry of the Equalization Board as to their reasons and mental process that they employed in fixing and determining the assessed value of any article or property that they had to do with.

MR. EWING: And for the further reason that the Board of Equalization has nothing to do with fixing the assessment. That is a matter entirely in the hands of the assessor.

Q. (Mr. Peters) When you were called upon to pass upon this roll of 1914, did you observe that the timber lands of the plaintiffs here were assessed

at considerably more than they were in 1912?

A. They were ten cents more.

Q. They were assessed at ten cents a thousand more?

MR. FROST: May we stipulate that this objection goes to this whole line of testimony.

MR. PETERS: Yes, sir, the whole line of it. You may elaborate it when the referee writes up his notes in any way you want to.

WITNESS: I don't care what he asks. I am not defending anybody. I did my duty, and that is all I care about. You may ask all the questions you want. I remember the transaction.

Q. Why did you consent to the approval of the roll in 1914 that assessed these timber lands at ten cents a thousand more than in 1912, when they were worth no more in your judgment on the market in 1914, than they were in 1912?

A. 1912 was not assessed high enough.

Q. 1912 was not assessed high enough?

A. No, sir. The assessors did not make a raise as high, as in my opinion it should have been.

Q. Did the Board discuss it?

A. I don't know about that. I discussed it with myself.

Q. The only discussion that was entered into on the 1914 roll was your discussion with yourself?

A. I remember myself what my opinion was. Of course, there was lots said, but what was said, I could not tell you.

MR. FROST: I object to that on the ground that the record of the Board of Equalization is the best evidence of what transpired there.

Q. Were there any arguments produced at that time?

A. No, sir, there was not.

MR. FROST: Are you now asking him questions concerning the actions of the Board of Equalization or concerning his own individual action before the Board of Equalization met? We desire at this time to direct your attention to the fact that the

County Board of Equalization by the laws of the State of Washington are required to meet on the first Monday in August, and that they then and there take an oath of office and constitute themselves a new and independent organization; that they act in a separate capacity from the capacity that they are employed in as ordinary County officers, and that the functions of the Board cease at the expiration of three weeks, and subsequent to that time they are not permitted to do anything.

Is it after the jurisdiction of the Board of Equalization attaches or the assessor? Are you asking the witness what transpired at the meeting of the Board of Equalization, or what he was doing there as a private citizen, or a member of the Board of County Commissioners?

MR. PETERS: You are proceeding on the theory that the King can do no wrong?

MR. EWING: During the time the Board of Equalization sits, it sits as a judicial body, and the reasons actuating its decision as embodied in the record are not to be inquired into.

Q. (Mr. Peters) Mr. Hansen, at what proportion of its true and fair value did you understand that the timber had been assessed at for 1914, by Mr. Hallahan, the assessor?

A. Of course, the assessor, in his opinion assessed it at fifty per cent; but I am not agreeing with him. I may pass upon it and all that, although I may say this cow you have here assessed as twenty dollars, and I maintain that the cow was worth sixty dollars, but at the same time I may have let it pass and that cow should have been assessed at thirty dollars.

Q. At what basis did you understand at the time you were acting upon the Board of Equalization in August, 1914, that the assessor had intended to assess this timber at?

A. I do not understand; I do not know what he did, and I never knew what he had assessed the timber at until the Board of Equalization met; be-

cause John Hallahan is one of the kind of fellows, and I would say, "John, what are you doing," would say I can get my knowledge on the first Monday in August, the same as everybody else did. That is the kind of a fellow John Hallahan is.

Q. Did you understand when you were sitting on the Board of Equalization that you had no power to raise or lower the taxes or the valuations as assessed by the County Assessor?

A. Did I understand I had no power to raise or lower? No, sir, I did not understand that.

Q. Did you understand that you had no power to raise or lower the assessments of the assessor?

A. No, sir.

Q. What did you understand about it, that you could raise it?

A. That we could raise it within a certain length of time. We can lower it during all the time, during the three weeks, but for raising we must send out notices in the first ten days.

Q. Did you raise any valuations on timber in 1914?

A. No.

Q. Did you lower any valuations on timber?

MR. FROST: I object to that as not proper cross examination and because it is a record, and the only proof is the record of the County Board of Equalization. The witness cannot be expected to remember every item or action of the Board of the assessment of a County that embraces thousands upon thousands of descriptions of property, both real and personal.

Q. Now you say that the timber lands in your judgment in 1914 were assessed at one-third of their value?

A. I did not say that. In my judgment it was not assessed at over that.

Q. In your judgment what was the city property of Port Angeles assessed at?

A. I would have to go over that lot by lot.

Q. Why? Did you have to go over this timber tree by tree?

A. I could not; lots are different. Lots you can see here and there.

Q. What was the basis you used by the assessor for the assessment of city property in Port Angeles upon the roll of 1914, that came up to you for equalization?

MR. EWING: I object to that on the ground that the witness does not know anything about it. It is something peculiarly within the knowledge of the assessor himself.

MR. PETERS: While that seems to be true of this matter so far as his duties as a public official are concerned, we desire to accentuate his ignorance.

A. Well, I cannot answer for the assessor, although I do not want to be unfair. I suppose he used the fifty per cent basis, as near as he could, according to his judgment. He may differ from me. Mr. Earle knows that we had great big cards, and we had every lot on that card, and we went over those cards, lot by lot, and we went and inspected the lots, not over the whole townsite, but over the main places where we felt it might have stood a little higher, or a little lower, and we used them on the Board as a whole. I even put my figures on; I took all of the Board of Equalization, and I says, "Let's put the figure here on this one and this one and see how it will come out, and we tried to change the assessment a little bit there down town, and by the time we got through considering it and reconsidering it, the assessor's figures were the best and we let them stand.

Q. How did you try to change them?

A. Add values.

Q. What changes did you try to make?

A. What do you mean?

Q. You said you tried to change them and put them on a list and cover it up?

A. One man comes up and says this: "Somebody else says my property is assessed too high in comparison with this man opposite, and for instance

if he has got one marked down here ten thousand dollars and we will make this one nine thousand dollars, and see how it will work through the block. My figures are still on the card and you can look at them how we did. When we got through we all concluded that the Assessor's figures were just about right, as right as any man at that time could get them.

Q. And you made no changes?

A. Yes, we did make some changes.

Q. You did not consider that the assessors figures were all right?

A. No; but what stands we did not change. We considered we could not better it any.

Q. What you left you left, and what you changed, you changed?

A. Sure, the record shows that.

Q. As near as you could get at it?

A. Yes, sir, the record shows that.

Q. You say, without going over the property values on the assessment roll in detail, you cannot tell at what rate they were intended to be assessed, is that true?

A. No, sir; I could not say that; I do not know what he had in his mind. I, myself, figured as near as I could that they were double that. I might say, I do not think he has got that quite high enough, and I might say that he has got that a trifle too high, and so the average will probably stand, because I am not always right.

Q. You do not know on what basis he figured it?

A. No, sir; let him talk for himself.

Q. Then I understand you, that when you were equalizing the values of city property in 1914 for that roll, you measured those by your judgment of their value on a fifty per cent basis?

A. Yes, sir.

Q. And when you were determining the roll with respect to timber lands of Clallam County for 1914, you measured that with your judgment on a thirty-three and a third per cent basis?

A. That is about what it was worth.

Q. Then you endeavored, as a matter of fact, to assess the timber lands, or you understood in measuring the valuations set by the assessor, in equalizing that roll for 1914, you took it on the basis that timber lands were assessed for one-third of their value?

A. No, sir; I did not take it as a basis.

Q. What did you take?

A. I figured out to myself that the timber lands were assessed at about one-third and let it stand that way.

Q. You figured that the timber lands were assessed at one-third of their value, and when you were figuring the city lands of Port Angeles you figured they were assessed at fifty per cent of their values?

A. Yes, sir; it might be pointed out that my opinion would be that even a town lot was assessed at one-third, and still I would let it stand in some instances.

Q. What right had a county official, do you know, to assess timber lands one-third of their value, or to approve the assessment at one-third of their value and assess the owner of city property at one-half of its value?

A. What right?

Q. Yes, sir.

A. We did not change anything. The assessors opinion may differ from mine, that is all.

Q. Wherever the assessor's opinion differed from you, you let it go at that, and left it as he fixed it?

A. I mentioned it; but the majority rules, and I dropped it. That very same thing came up during the Board of Equalization during 1915, several times, and the figures stand just the same, just because the assessor estimates his a little bit low on one article you do not always raise it. If he is a little high they average up when they all belong to one man."

Witness again details the conversation he had with Mr. Darwin, as follows:

WITNESS: Mr. Fitzhenry was telling him about the great resources of Clallam County, and he was telling him that we had sixty billion feet of timber in

Clallam County. I have never believed it myself. I do not believe it yet. And the logged-off land question came up. I did not tell you this before, that the west end of Clallam County had no outlet at all. At that time, if any one from the east end of Clallam County wanted to go to the west end, he had to go by steamboat to Clallam Bay, and he had to go over a very rough road that took all day, from morning until night, to get to the Forks, and he had to make that same trip back again, and then take a steamboat again, and it took from four to five days to make the round trip to the Forks to do one hour's business, and that is the way the question of poor roads came up in our trip to the lake; and we wanted to take a trip across the Elwas towards Lake Crescent; to the logged-off lands about the resources of that valuable soil and the sixty billion feet of timber, and he says, "Why don't you get good roads?" And I told him we could not; that at the present time we were getting all our County cruised from the beginning to the end, the timber, the logged-off land, wild-cat land, and the east end land.

Q. You were not cruising logged-off land, and wildcat land, were you?

A. It was all cruised, every bit of it was cruised and completed and platted in ten acre lots, and when any one comes in and says, "This ten acres is no good", we have that assessed at ten dollars, we refer him to our books, and our books are absolutely correct, ninety per cent correct. We say, "Do you mean to say this is a pile of rocks, instead of good land?" He has to dispute it. We did not have that at that time.

MR. FROST: Go ahead and tell your story.

A. I forgot.

Q. (Mr. Peters) Mr. Hansen, if you were unable at that time to get good roads, how did you get them?

A. We bonded the county for three hundred thousand dollars and built good roads that fall, and we have got them, and we owe the three hundred thou-

sand dollars for them, I told Mr. Darwin about the logged-off land too.

MR. FROST: Go ahead and tell the rest of your story about Mr. Darwin; he asked for it.

A. I think I have it pretty well told, haven't I? That we were making a complete cruise of the county, and that heretofore the only cruise that we had was made by incompetent men, hired by former County Commissioners; I told him that, and that timber owners had handed in their own cruises, which were very small in comparison with what we were entitled to, and the result of this cruise would be more equalized, the taxation, and we have those results, too; they are absolutely equalized.

Q. Mr. Hansen, you don't mean that these two volumes of timber cruises of lands that have been put in evidence here in this case were incompetent and unsatisfactory?

A. Made by Duvall?

Q. Yes, sir.

A. No, sir, and they are not unsatisfactory.

Q. Those are the ones which you mean were perfected and completed?

A. Yes, sir; and they cost us a good deal of money to get them corrected, and we levied the money and paid the cash for them to do it. It raised the taxes.

Q. Those volumes were all in shape, so far as the timber lands are concerned, for the 1912 assessment, were they not?

A. No, they were not completed.

Q. You heard Mr.—

A. We have our men still working making books for the County.

Q. I say, the books, so far as they refer to the plaintiffs lands here?

A. I would have to refer before I could say they were all ready at that time on record. I would have to refer.

Q. You heard Mr. Hallahan when he was asked that question, and he stated that they were so com-

plete so far as the plaintiffs land was concerned for the 1912 assessment, did you?

A. I do not know; I may have heard it; I do not remember.

Q. He did so state.

A. I don't know.

Q. Do you know anything about it yourself?

A. Whether they were complete or not?

Q. Yes, so far as the plaintiffs lands were concerned?

A. No, sir, I could not tell you.

Q. Without looking at the dates?

A. The proposition is too big for any man to say that this particular thing was finished, or that was finished; it is impossible.

Q. Then you would not say that the plaintiffs lands had been completely cruised by Mr. Duvall and extended on those books for the 1912 assessments?

A. No, I could not tell you that.

Q. What proportion of timber lands had not been cruised by Mr. Duvall, and this new system inaugurated, so far as those lands are concerned, at the time of your conversation with Mr. Darwin?

MR. EWING: The defendants object to that as being incompetent, immaterial and irrelevant, and not proper cross examination.

A. I do not know that anyway, how much was completed.

Q. How much would you judge?

A. That did not come under my jurisdiction.

Q. Then you didn't really know anything about it at the time you were telling this to Mr. Darwin?

A. I did not tell anything about it. I told that we were getting a county cruise. It takes time. It took two years to do that."

The witness told Mr. Darwin at that time that they expected to get a good deal more in taxation not only out of the timber lands, but out of the whole county and that they did get more taxes out of the county. The witness does not know what proportion of the cruise had been completed and had been used

for the purposes of the assessment in 1912. He would have to go to the assessor's office to find that out. The witness told Mr. Darwin that they were cruising the county and that was what they were doing, and that they had completed it and they are absolutely proud of their books.

"MR. PETERS: I think you have occasion to be. I think you are to be greatly congratulated."

Witness says that this trip with Mr. Darwin was taken in the summer time.

"Q. In figuring the valuation of that land in 1912, the timber lands, and making up your judgment on it when it came before you for equalization, that is, in making up your judgment on what is the value of that lands, just how did you figure it? What did you consider the value of the lands and on what basis?

MR. FROST: We renew our objection.

MR. PETERS: I will consider that the former objections are all repeated here on all the grounds that have been heretofore urged by the defendants.

A. I have forgotten the question.

Q. I wanted to find out this, Mr. Hansen; you said that the lands in your judgment in 1912, at the time of your equalization for 1912, were worth,—that is, the plaintiffs' timber lands were worth two dollars and fifty cents, did you?

MR. EWING: I object on the ground that the question imports the witness's answer to be that in his judgment the valuation is as he stated, and his judgment cannot be analyzed.

Q. On what did you base your judgment?

A. By ascertaining, by looking for knowledge wherever I could find it.

Q. What knowledge did you find?

MR. FROST: It is understood that this objections runs to all these questions.

WITNESS: Sure, sure. That does not make any difference. For instance, in cruising the ground we knew it would cost us all the way from thirty to fifty, or sixty thousand dollars. I was not going to see any Clallam County money wasted. I ascertained

if Mr. Hallahan had hired Mr. Duvall to go at the head of it, and I found out for myself first whether Mr. Duvall was a proper man for that position, and I got a letter from Pierce County, from the Commissioners there. I asked them about Mr. Duvall, and they answered back that he was an A-1 man, and that we could not better ourselves. I wrote to Mr. Frost, and I got a good answer.

Q. What did Mr. Frost say about Mr. Duvall, by the way?

A. A good man.

Q. With a thorough knowledge of the values of timber and of timber interests in every way?

A. And there was a third party, I do not know who he was. It was the tax commissioner. We referred often to the tax commissioner. For instance, we referred to the tax commissioner about large holdings and small holdings, and they gave us a ruling.

Q. Then you did not follow their ruling?

A. No, because we took it under consideration and the minute we started in say, with forty acres, eighty acres, one hundred and twenty acres, one hundred and sixty acres, and two hundred thousand acres, where is the limit where any man can come to an agreement, where to stop; and we took them all equally.

Q. What was your advice from the Board of Tax Commissioners?

A. You have been told that before.

Q. You tell it to me, will you?

A. That the smaller holdings were not worth as much as the large holdings, that was my understanding. That may not be the words.

Q. And they should not be assessed on the same basis?

A. That they should not be assessed as high, that the timber was not worth as much money; you could not sell it. How are you going to draw the difference? Put it in practice and it is a different question. Theory don't altogether work.

Q. What I asked you, Mr. Hansen, was on what

basis did you figure that these lands had the value of two dollars and fifty cents in 1912?

A. Where did I get my information, you mean?

Q. Yes, sir; how did you figure that they were worth two dollars and fifty cents.

MR. FROST: Let the general objection run to this.

A. I even got some information from Mr. Michael Earles. I asked Mr. Carrigan what he thought about it. He is the county Commissioner from King County. He is a man that owns timber. He is a man that is well posted all over, holding the same kind of a position. I asked wherever I could, for instance, on the other day I cut something out of the newspaper. How do I get my information? I get it by piling it up and using my judgment.

Q. This newspaper clipping which you have in your hand was one?

A. Portland, September 9th, this here.

MR. PETERS: I don't think that would be competent.

A. No, but it is a good information for me as a County Commissioner.

Q. You would not say that this publication of 1915 assisted you in 1912?

A. Not a bit, but I am demonstrating to you how I get my knowledge. I haven't got much, but what I get I have to pick it up.

Q. You had complete confidence in Mr. Duvall, and in Mr. Duvall's knowledge, didn't you?

A. Yes, sir.

Q. And Mr. Duvall's knowledge is on those compiled books as a cruiser?

A. As a cruiser I would trust him, because from the experience since that time we have had very little complaint; and for instance, when a fellow comes to me and says, "I am taxed too high", and so forth, I ask him, "How does our cruise compare with yours?" and it is very nearly the same. It is the answer every time, "Very nearly the same as our cruise". Our cruise, I think, is ninety per cent correct.

Q. And you allowed the assessment to stand as it was?

A. Oh, yes; we can only safeguard ourselves so far, and no further.

MR. FROST: Did Mr. Duvall have anything to do with fixing the values?

A. Not a bit, no. I do not think he did. I know he didn't. I have talked to him several times, but if Mr. Duvall had fixed the values he would have fixed them too high.

Q. What was it you said about the logged-off lands and the Michael Earles property in this talk with Mr. Darwin? I did not catch that.

A. I did not say it, but I will tell you that the logged-off lands were assessed too low for the prices that they were asking for them.

Q. What were they assessed at?

A. They were assessed all the way from \$3.00 an acre to \$5.00 \$6.00, and \$7.00, and that was unsatisfactory, and we told the assessor that it was unsatisfactory, and the Board at one time attempted to raise those logged-off lands, and just on account of not having the proper information in the office we could not do it, because it was nothing but dispute. One man would say, "This is fine bottom land; it is worth twenty dollars an acre", and the other fellow would say it is nothing but rocks, so what could we do?

Q. When you told the assessor that they were assessed much too low, what did he say?

A. He said, "They will be cruised the same as everything else, and then there will be a better assessment", and there is at the present time, there is a good assssment of the logged-off lands.

Q. What are they assessed for, do you recollect?

A. All the way from six to twenty dollars an acre.

A. At what proportion of their real value?

A. About fifty per cent. Michael Earle is offering land for forty dollars an acre, and you will find it is assessed for twenty dollars an acre, and some of

it is worth thirty, and less, and some is not worth a cent.

Q. What inquiry did you make, did the Board make, into the assessment of the Michael Earles plant in 1914?

A. The Board did not make any inquiry.

Q. You were here yesterday when Mr. Hallahan was upon the witness stand, Mr. Hallahan, the assessor?

A. Yes, sir.

Q. And you heard his statement as to his assessment of the Puget Sound Mills and Timber Company's plant?

A. Yes, sir.

Q. And the large bulk of machinery and implements were assessed as I recollect it, at seventy-five thousand dollars?

A. I do not know what the figure was.

Q. What investigation did the Board of Equalization make as to that assessment of the Michael Earles plant?

A. It was up, it was considered; but the mill was unfinished, and it was left the way it was. I do not think there was a thing raised or lowered. There might have been.

Q. Was there any effort to raise it?

A. I don't think so.

Q. Was there any effort to lower it?

A. I don't think so; I don't know just exactly what happened. We took our personal tax roll, and we started in with the first page and would go right straight through it to the end.

Q. And you made no investigation yourself, and you do not recall any statements made before the Board of Equalization with reference to the Michael Earles property?

A. There is no question but what we asked Mr. Hallahan some questions, because we do that; and what his reply was I cannot tell you exactly.

Q. With reference to the Olympic Power Company's assessment, what investigation did the Board

of Equalization make with reference to that?

A. We all knew the Olympic Power Company's luck, that they had nothing.

Q. They knew that in 1914, that the Olympic Power Company had nothing?

A. We knew that the money was wasted. We could not go on what it cost them. We knew that the money was absolutely spent by poor engineering.

Q. You heard the testimony that that plant is a going concern?

A. Yes, sir; the plant is a going concern.

Q. You heard the testimony of Mr. Aldwell here with reference to the completion of that plant, and of its holdings, did you not?

A. I was in the court room, but oftentimes I am thinking about something else, and things go on, and I do not always hear them.

Q. Do you recollect what that was assessed for?

A. No, sir, I do not.

Q. How do you know, how do you recollect at this time that you had it under consideration at all?

A. That is natural; that is perfectly natural.

Q. Here is a great big plant, isn't it?

A. Yes, sir.

Q. It is a tremendous plant?

A. It is not a tremendous plant.

Q. You heard the statement read that Mr. Aldwell's Company had furnished to the public service board of the State of Washington, did you not?

A. I saw you considering it, looking at it, but what it said inside I do not know.

Q. You were there at the time the inquiry was made of Mr. Aldwell about that, were you?

A. I was in the room.

Q. You heard him ask about these values that were stated in this report to the public service board, namely that the land was valued at \$1,530,517.34; that the buildings were valued in this statement at \$1,506,742.77; that the transmission lines were valued at \$261,535.56; you heard those, did you?

MR. EWING: We object to that as being in-

competent, immaterial and irrelevant, and not proper cross examination. It makes no difference whether the witness heard it or not. Whatever the proof is is in the record.

Q. I asked you that to refresh your recollection.

A. I heard it; but the figures I haven't in my mind.

Q. There is not any such considerable plant as that Olympic Power Company in Clallam County, is there?

A. No, sir, that is the only electric light plant.

Q. It is a tremendous plant?

A. No, it is not.

Q. You don't think it is?

A. No.

Q. Is there anything else in Clallam County to compare with it in size?

A. A man that owns a peanut stand is better off than the man that owns that.

Q. That is the answer that you desire to make as a public official?

A. It is a failure, as far as my opinion is concerned.

Q. When you passed on the assessment of it, did you take those matters into consideration?

A. If a man wastes his money I do not think it is any of our business.

Q. Did you find out at that time how much money he had wasted in the construction of it?

A. I know it has been wasted; how much, I do not know about it. I know that the money was wasted and lost and washed out. It went into the river.

Q. Did you find out at the time you sat upon the Board of Equalization when this item came before the Board for consideration, did you find out how much money they had put into that?

A. I did not find it out then. I had heard it several times before.

Q. How much had you heard?

A. I do not know, but they were large sums, and I had watched the construction of it myself and had

seen them dump sack after sack of cement which was supposed to go down in building up the dam, go like a milky cloud, go down in the river; I have seen that.

Q. Do you recollect how much the plant was assessed for?

A. No, sir; I do not.

Q. Do you recollect what the transmission lines were assessed for?

A. No, sir, I do not recollect.

CROSS EXAMINATION. (Continued)

By Mr. Earle:

Q. Mr. Hansen, we understand you to testify that in the Equalization work of the Board you equalized all property as far as you understood at the same rate?

A. We did not equalize it; we viewed it, and would see if the assessor had done about as near right as he can.

Q. Having in mind—

A. A gross error we would correct.

Q. It was your intent to recognize a uniform rate—

A. Yes, sir.

Q. Wait until I get through. Get in mind what I am asking you and answer that special question.

A. Go ahead.

Q. It is your claim, isn't it, that you had in mind a uniform rate of assessment?

A. Yes, sir.

Q. And it is the claim of the Board, is it not, that your testimony is based upon that position, that the Board equalized property in such a way as to bring it up to the same rate?

A. As near as possible, as near as their judgment would go.

Q. And referring to the instance of the Port Angeles Trust & Savings Bank, of which Mr. Babcock was the vice-president, was he not, at the time he sat on the Board?

MR. EWING: No, the proof does not show that, not at the time he sat on the Board.

MR. EARLE: Well, Mr. Babcock himself swore to that.

MR. EWING: No, after he got off the Board.

WITNESS: I think it was organized afterwards.

Q. Mr. Babcock, the record will show, was vice-president of the Bank at the time it was organized in February of 1914. He was a member of the Board in 1914?

A. In 1914, yes, sir.

Q. Mr. Hansen, do you know the capitalization of the Bank?

A. \$25,000.00, isn't it?

Q. \$25,000.00?

A. I think so.

Q. As a member of the Board of Equalization you knew the amount at which it was assessed, did you not?

A. I have seen the figures.

Q. As a matter of fact, it was assessed at \$2000.-00, wasn't it?

A. I do not know. It was assessed at something like that.

Q. You were a member of the Board of Equalization in 1915, were you not?

A. Yes, sir.

Q. And the work of the board in 1915—

MR. FROST: I object to any question concerning the work of the Board of Equalization in 1915. It has no relation whatever to these matters in controversy in this case, and the work of the Board of Equalization in 1915 is a separate and distinct organization from the Board of Equalization in 1914, and 1912.

Q. Mr. Hansen, in the work of the Board of Equalization for 1915, did you recognize the same rate of assessment as in 1914?

A. As in 1914, yes, sir.

Q. Is it not a fact that after plaintiffs' suit had been begun the assessment of the Port Angeles Trust & Savings Bank was multiplied by eight or more?

A. I do not know. It is different; I know that,

but how he did that, or how he multiplied it, I cannot tell you. You ask him about it; he is here; but the figure is different.

MR. FROST: We object to this line of examination, because it is not proper evidence, or any evidence at all; and the action of the Board and assessing officer is the only evidence, and the record itself, the records of the assessment, and the record of the Board of Equalization, as to that particular assessment.

Q. You were chairman of the Board of Equalization in the years 1914, and 1915, both, were you not?

A. Yes, sir.

Q. Was it an attempt of the Board of Equalization to equalize the assessments on the Banks at the same rate?

A. When, this year?

Q. 1914?

A. The banks in 1914, in all the years I have been on the Board, they have never been mentioned amongst us, and I myself have always been of the opinion that money was not assessed, for some reason—I do not know how I got it,—but the banks, for instance, if it stood there for \$3000.00 it remained there. Its capital stock never came up for our consideration. It was not left unassessed purposely. It was because there was no rule for assessing it. I had always supposed, and I think that the other members are of the same opinion, that it was the same way all over the State.

Q. Don't you know as a member of the Board of Equalization and the County Commissioner that the Statute prescribes in a special paragraph just how the Banks shall be assessed?

A. Yes, sir; I never saw that.

Q. Did you ever look for it?

A. No.

Q. You are, and were then, a director of the Citizens National Bank, were you not?

A. Yes, was before, all the time, a long time before I came on the Board of Equalization. I don't want you to make out that I am a big owner of the

Citizens National Bank. My stock in that Bank is just exactly one thousand dollars, and I gave them a note for it when I got it, and it is all paid but four hundred dollars.

Q. I am not inquiring into your financial standing; I am trying to get at another matter.

A. But I don't like to have the impression that I am a big owner in the Citizens National Bank, and that anybody would, or they could, use an influence, or anything of that kind over me; because there is not a man in Clallam County, whether he is associated with me in business or is not, that ever could use an influence over me. I use my own opinion in those matters.

Q. Isn't it a fact that the rate of assessment on all the Banks of Clallam County is wrong?

A. Sure, they are wrong. They were wrong. I will admit that. There is no use trying to get around it. I admit it. And I admit it because we did not know any better. Our attention should have been called to that. You had plenty of chance to call our attention to it. You have been coming down here right along; but you never called our attention to it, never once.

Q. You were a director of the bank, and familiar with its capitalization, and all that sort of thing, and at the same time you were a member of the Board of Equalization?

A. Yes, sir.

Q. It is a fact, is it not, that the assessment of the Banks of Clallam County for all the years for which you have been a member of the Board, was at the rate, or ratio of about 10% of what the Statute prescribes should be the rate of assessment?

A. The books will show you.

MR. FROST: The assessor does not prescribe what shall be the rate of assessment, or the manner. The law of the State of Washington requires that the capital stock of National Banks shall be assessed at the market value, the same as other property.

MR. EARLE: I will repeat the question.

Q. Isn't it a fact that during the years on which you were a member of the Board the Banks were assessed at 10% and less of what would be the market value of the stock of these Banks?

A. They were assessed at exactly what figures there are on the books. If it is \$3000.00, it is \$3000.00. As far as 10 or 20% is concerned, I will keep that out.

Q. Isn't it a fact that there was a uniform rate reserved in assessing those banks?

A. And if one bank with a capitalization of \$25000.00 was assessed at \$3000.00, the other Bank with the same capitalization was assessed at the same amount.

Q. And the Bank at Sequim with a smaller capitalization was assessed at a like ratio, on a smaller capitalization?

A. The assessor did that, I do not know how he did it. He assessed them that way, and they passed the Board of Equalization with them.

Q. Did you recognize any discretion of your own as to that?

A. I was ignorant as to the banks although I am a member of the same in a small degree, only. But as far as money is concerned, I do not think that money was ever assessed any place.

Q. What I want to get at is, what would you do with reference to these assessments when the assessment of the Banks came up to you as a member of the Board of Equalization; did you pass any judgment on them?

A. Yes, sir; I thought the assessment was right.

Q. You thought the assessment was right?

A. That was my opinion of it, and I found out this way after you stirred up the Banks of the County this way, when you went around and subpoenaed the cashiers, then I was told that that assessment was not high enough; but that is the first I ever heard during my five years as County Commissioner that they were not assessed right.

Q. Do you mean to say as director of a Bank

that you never considered the matter of assessment in relation to the Bank?

A. No, sir; neither has any one of the members of the Bank ever mentioned the Bank's assessment to me; and I will take ten oaths on that. Neither have I gone and looked after the Banks account. I have never taken advantage of them, or they of me, in any way. My own competitors have not gone and looked at that bank account to see what they were doing in the way of business, never have used any influence over me, and they would not. They are not that kind of men."

On redirect examination witness says there was no protest filed against the low assessment of banks in 1912, 1913 or 1914; that neither the witness personally, nor the Board of Equalization, had any intention of discriminating in favor of the banks in the equalization of taxes for those years. He says it was an absolutely innocent act of the Board through his inability to properly construe the Act; that Mr. Earle, counsel for the plaintiffs, has been coming down to the county for four or five years, and could have set the Board right if he wished. They have always kept an attorney over us. They take good care of us; don't fear about that. Witness says that he was a school director for nine years, and two terms city treasurer.

On re-cross examination by plaintiffs' counsel, witness says he has been continuously on the Board of Equalization for five years. Witness says K. O. Erickson was chairman of the Board of County Commissioners during the years 1911 and 1912. Witness testifies to a number of specific crimes of which he states K. O. Erickson was guilty.

Defendants offer in evidence as exhibit "38", the Equalization assessment in the town of Port Angeles, taxing District No. 1, for 1912, and 1914. Plaintiffs' counsel thereupon states: "This memorandum of the defendant, being the items of which their exhibit "24" is compiled, is requested by plaintiff, and is filed in the suit in connection with this exhibit "24" by the

defendants, and is named "Exhibit 24-A". The zones are marked on exhibit "24-A" in accordance with the green zone figures on defendants' exhibit "18".

(Witness excused.)

JAMES DICK, a witness called on behalf of the defendants, testified as follows:

DIRECT EXAMINATION.

Has lived in Dungeness thirty-four years; is a farmer; was one of the organizers of the Tax Payers League at Sequim. There was one organization at Sequim, another at Port Angeles. Witness is asked by defendant's counsel what were the objects and purposes of the League. Upon inquiry of Plaintiff's counsel, witness admits that they had Articles of Association, and by-laws in writing, and still have them. Whereupon plaintiff's counsel objected to any parol testimony of the witness as being incompetent, in view of the fact that the matter was committed to writing. Witness thereupon states that the framers found that the taxes were going up very high, that they were going to bond the county for \$300,000.00 to build new roads, which a great many of them didn't favor, and this League was organized to see what was the necessity of all this money, to see that it was expended more judiciously. Witness, together with Joe Keeler, and Donald McInnis, was appointed a committee to go to Port Angeles when the County Commissioners should make their estimate of expenditures for the coming year, to see if they could not hold them down, and they went down for this purpose. At a meeting in 1914, Mr. Dan Earle, plaintiff's counsel in this case, was there, and Mr. Hunt, and Mr. Henry, and a great many timbermen. At their request we met them at the hotel, and it was arranged that Mr. McInnis should do the talking for both the timber men and for the League to the County Commissioners. They went over to them,—It is while they were making their estimates, and making the levy, and they went over with the County Commissioners what would be their expenses for the next year, and tried to shave

them down, and got a kind of compromise out of them, and went back and made a report. We were sent back by the League again in October. Mr. Earle, and Mr. Hunt, and the same timber men were there again. Mr. McInnis made the speech to the Board, and told them that it was just as hard for the rich men to pay their taxes as it was for the farmers, and we wanted economy. We got the levies cut down, the current expense fund shaved to the limit, a little too much I guess, and the road levies in the west end, where the timber owners have property,—two mills in both those road districts; that is, we got their promise that they would do that, and also Road District No. 1. Mr. Hansen, however, would not reduce his levy, that is, District No. 2. That embraces the City of Port Angeles. Mr. Clark agreed to have his levy cut down. His was Districts 3 and 4, the West end, the timber end of the county. Mr. Lotzgesell's, is the Dungeness locality, the east end. He promised that he would cut his also.

Witness Dick is now a County Commissioner, was then school director, was elected commissioner in the fall of 1914; republican in politics; always had a little interest in politics. He never heard of any discussion, or rumor, concerning any conspiracy on the part of the officials, or anybody else, as charged in the plaintiffs' bill; don't think there was any such conspiracy or agreement; thinks he would have heard of it if there had been. Mr. Lotzgesell was witness' unsuccessful opponent for County Commissioner.

Witness is asked the following:

“Q. Have you bought and sold any property in Clallam County since 1912?

A. Yes, sir.

Q. Can you describe the property that you bought and sold?

A. Only as a part of the Abernathy Donation Claim.

Q. Do you know how it is described?

A. The Abernathy Donation Claim is the way it is described.

Q. What was the extent of the property?

A. Well, it is a 320 acre claim, to start with, and I own 101 acres of it, I think, and then 12 acres, that would be 113 acres that I own now; and I bought the remainder of it, and what was left, I think it is 149 acres.

Q. What did you pay for it?

MR. PETERS: We desire to object to this as not a competent inquiry or proper direct examination from the plaintiffs' own witness, and not a basis of value."

Witness says that he bought the Abernathy Donation Claim from Joe Keeler. The original claim he says, was 320 acres; portions were sold off, and 149 acres left, and witness bought that from Mr. Keeler, and took up a contract that a man by the name of Louis Longmeyer had with Mr. Keeler, paid \$6500.00 for it. This was in 1912, or the spring of 1913. The portion occupied by the river is included within this 149 acres.

CROSS EXAMINATION (By Plaintiffs).

Q. Mr. Dick, is it not a fact that the meeting that you attended was the meeting in August of the Board of Equalization, at which time written protests by the timber men were presented, and presented on the day when this hearing was had before the Board; wasn't that the meeting of the Board of Equalization that you attended?

A. We probably were there at the Board of Equalization, too; I think we were.

Q. Where was the meeting held?

A. We were there at the Board of Equalization, but I do not think that we were sent by the tax payers league at that time.

Q. Where was this meeting held, to which you refer?

A. In the court house, you mean?

Q. In what office?

A. In the assessor's office. You were there. That was the Board of Equalization, but we were

not sent there that time by the tax payers league, I don't think.

Q. Wasn't that the meeting to which all of your testimony here refers?

A. Mr. McInnis made substantially that same talk there.

Q. The County Commissioners, when they met as a Board of County Commissioners met in the County Commissioners room up stairs in the old court house?

A. Yes, sir.

Q. Wasn't that the meeting to which all of your testimony here refers; is that the meeting which was held down in Mr. Hallahan's office, and was a meeting of the Board of Equalization at which Mr. McInnis made the proposition that a horizontal cut of ten per cent should be made on the assessment of all property, and that the timber men should be content with that inasmuch as they were concerned only with the amount of taxes which they were paying, and by getting the ten per cent cut that would give them a ten per cent relief, wasn't that Mr. McInnis' proposition.

A. Yes, sir.

Q. And did we not at that time, representing the timber owners say that that proposition was not at all satisfactory to us inasmuch as it did not remove the discrimination against the timber and it was the discrimination against which we were chiefly complaining?

A. I do not remember what the timber men said in regard to that; but I remember the Board of Equalization did not favor a ten per cent cut; but they would do something on the levy.

Q. And Mr McInnis put his proposition at that time in a written statement and submitted it to myself with the idea of getting the timber men to recede from the position of protest which they there took and consent that the ten per cent flat reduction would constitute the entire relief granted to them?

A. I think so.

Q. And this testimony then that you have given with reference to the meeting with the timber men, which took place at the Olympic Hotel, occurred at the time of meeting of the Board of Equalization in the assessor's office, didn't it?

A. I am not dead sure; we were there at all those meetings and met you every time, and conferred with you and talked taxes with you every time we were there. We were to all the meetings; that is the way I remember it.

Q. Was there more than one meeting at the Olympic Hotel?

A. No. I never went to only one meeting at the Hotel. Mr. McInnis probably went to more."

Witness admits that the Abernathy purchase was only a purchase by the witness of the contract which Mr. Longmeyer then held upon the property. Mr. Longmeyer had property in Eastern Washington, and he wanted to get away from this part of the country, and get rid of this contract. Witness paid Longmeyer back what he had already paid on the contract, and just took the contract over. Witness completed the purchase and re-sold the property for \$7500. Witness thinks that he made \$800.00 on the deal, and took the crop off of it. He bought it in the spring, and sold it in the fall of 1913.

(Witness excused.)

J. W. WARREN, called as a witness for the defendants, testified as follows:

DIRECT EXAMINATION.

He is auditor of Clallam County; elected in the fall of 1914; has lived in the County for fifteen years; knows John Hansen, John Hallahan, Frank Lotzgesell, and C. L. Babcock. Has known them ten years; has had more or less interest in politics. Witness has never heard of any such conspiracy, or confederation, discrimination, or agreement, as pled by plaintiffs' bill, or otherwise. Such did not exist to his knowledge; thinks he would have known it if it had.

On cross examination witness admits that he

owns no lands in the western part of the county. The county officials mentioned above are all friends and neighbors of his, Mr. Hansen and Mr. Hallahan having lived there for fifteen years.

(Witness excused.)

E. A. PRICKETT, a witness on behalf of the defendant, testified as follows:

DIRECT EXAMINATION.

He is assessor of Clallam County; elected in the fall of 1914. His opponent was W. B. Gould, who was a field deputy of Mr. Hallahan. Ray Haines was his opponent in the primaries. Has lived in Clallam County nine years. Witness owns a little bit of timber land in Clallam County which he has owned for about six years. Has never heard of any such conspiracy, agreement or confederation, as charged in plaintiffs' bill, no similar conspiracy of any other kind. Such does not exist to witness's knowledge; if it had, he thinks, he would have known of it.

On cross examination, witness says that he owns two pieces of timber land, one of one hundred and forty acres, the southwest quarter of the northeast quarter of section 22, township 29, range 14 W.; the other, a half interest in three hundred and seventy-seven acres. This is down in that same neighborhood. This land is mostly hemlock and spruce, very little fir; owns no property in Port Angeles; was in the fish business before elected to public office, buying and selling at retail.

Witness says, and for this he is made the plaintiffs' witness, that the manner of assessing personal property by him this year of 1915, is to put down against that property a full one hundred per cent value, and then deduct from it the fifty per cent, upon which the assessment is levied; that is to say, if property were worth a thousand dollars, it would appear in the column as valued at a thousand dollars, but it would be assessed at five hundred. In answer to the question whether he employed the same methods of listing property in 1915 rolls as was employed in the

1914 rolls witness answers, 'It is listed on detailed sheets, the same as it always has been, I suppose.' He says that the records they have were made before the State Board of Tax Commissioners ordered him to take this new way. That they are short one column on there and the tabs are all constructed to take the property at the full value and then supply the percentage that they are assessing the property in the county which is 50%. That the witness is using the old form books which are short one column, and the total of the assessment is put after each name down at the bottom and on account of not having the extra column they have to write on the bottom 'less 50%'. That the new books they will have next year will have another column in there. On redirect examination the witness says he does not know whether that system was in force prior to 1915. That part of it was on the law passed in the 1913 legislature. He does not know how soon that went into effect after the bill was passed. That he heard the list of shingle mills that was read the day before but does not remember the assessment of any of them in 1915. He had no occasion to try to remember them.

(Witness excused.)

GEORGE BENSON, a witness called for the defendants, testified as follows:

DIRECT EXAMINATION.

Lives in Port Angeles; has been engaged in making up reports on a timber cruise of Clallam County; is shown plaintiffs' exhibit "B"; says that that is a print of a map that Mr. Rixon gave witness to place upon it the township and range lines. At the time witness received it, the township and range lines were not on it. The map, he says, is not accurate. The range lines will not check out with the distances as they should. There is a difference of about a mile, or a little over, on this scale. Mr. Rixon knew that, because witness put them on under his direction. He told witness to put upon the map this line which runs from Lake Crescent, between 8 and 9, and the line that

is right east of Sequim Bay, between 2 and 3. He told me to put those lines on as a base, and to distribute this error between that distance. It is an error of a little over a mile.

On cross examination witness says that it is an error of a mile in the distance of approximately forty-eight miles. Witness did not put in the lines showing the elevation. They were already in. All the witness did was to put in the range, the township lines and the shore lines. He got the data for the shore lines from the Government township map, from copies furnished him. The range lines were marked on the Government township map. Witness was asked why he didn't take those from there and answers that he did try to but they would not check out within a little over a mile.

Q. Did you check it with anybody else besides Mr. Rixon?

A. No sir, I don't think I checked it with Mr. Rixon. Mr. Rixon told me at the time that it was different. He gave me directions. I think if he hadn't given me them I would probably have put in those range lines differently, but I did it under his direction. I had this between two and three for one base, and one between eight and nine, and distributed the difference between those other townships, so the error would not all show in one'."

Q. (Mr. Earle) Showing you plaintiffs' exhibit "B" is that a map that was prepared by you?

A. Yes, sir.

Q. Are those lines correct?

A. As near as I know; I don't know though.

Q. Do you know of any error in those lines?

A. I would not want to say. That is a pretty small scale. As far as I know there is no error in it.

Q. And that shows all this part of the County in which all the plaintiffs' lands lie?

A. As far as I know it does.

Q. You have seen the map?

A. Yes, sir; I made up their locations too.

Q. You have seen the cruise sheets and know where their lands lie?

A. Yes, sir.

Q. And this is that map in which all the plaintiffs' lands fall, isn't it?

A. I think it is.

Q. Who first called your attention to the error in this map here?

A. Mr. Rixon did.

Q. Are you sure about that?

A. Absolutely; I went down to the Commercial Hotel. He telephoned for me to come down—and you remember, I think, too. The first sight I made was over a mile long, because I chained the wrong line to start on between eight and nine.

Q. To refresh your recollection for a moment, wasn't the first time that error was ever called to your attention on the occasion when I called it to your attention?

A. Yes, sir; that error in the first prints, yes, sir; that is the first time.

Q. I first called that error to your attention and you have since drawn the lines correctly for me, have you not?

A. I will have to explain that a little bit. I do not quite understand. The forest reserve lands comes down on this section line, and at the time Mr. Rixon and I looked at the blue print in Clapp's Hotel, and he told me to put it in as coming down—isn't this the incorrect map?

Q. Yes, sir; that is the incorrect map.

A. This other map I made for you is the correct map.

Q. So far as you know you made it for me and represented it to be correct?

A. I understood that the one I made, I was under the impression that the range line came down here.

Q. Part of the map, this map is a continuous one, isn't it, in two sections?

A. Yes, sir, a continuous one in two sections.

Q. And that part of the map in which the plaintiffs lands all lie is correctly drawn, isn't it?

A. Well, as far as putting on the township and range lines it is.

Q. Explain that?

A. When Mr. Rixon first called my attention to that he told me how to draw this line, and I really accepted Mr. Rixon's error. The forest reserve line runs along between eight and nine, or rather one section east of eight and nine, I think you will find, and I made it out according to Mr. Rixon's direction, and then you called my attention to it and I made a correct map of it. This map is incorrect. (Speaking to Mr. Earle) It is made according to Mr. Rixon, and Mr. Rixon was the one that gave me the wrong steer.

Q. It is due to the fact that right in there is an extra long township?

A. No, I think where Mr. Rixon got confused was on account of the line on the reservation being a little heavier on this print, and we both looked at it, and he took it as the range line, and I simply followed up his error too. I made a mistake, I should have checked up and remedied it."

On re direct examination by defendants' counsel, witness says there was nothing on the plat given to him to indicate the position of the township and range lines. He says that the contour lines did not fall within the proper township and ranges; that the placing of the township and range lines was purely guess work, as far as the contour lines are concerned. Witness would not say that this map would be very reliable. He knows nothing about how the topography was taken. In the maps as originally prepared, witness paid no attention to township, ranges or sections, and the township and range lines are super-imposed upon this map so as to take it off in proper sized squares, and they may happen to fit the topography or not.

On cross examination, witness says that he made the large county map that was testified to by Mr. Remke, witness for the defendants; that in making

this map, witness took the railroad survey, and platted that on first, and took what topography they showed, the correct crossings and gulches and so forth. They did not show, he says, very much each side of the line,—and he connected himself up with the other information which he got from the cruisers' report, and which he had already made out and compared with this map, exhibit "B", and that in very few places the locations would check up with his plat and survey; so far as the elevations and contours go, witness does not know. Witness has not checked this exhibit "B" with respect to contours. Witness made his lines correspond to the memoranda shown on the Government township plat as far as he could, and this map, exhibit "B", is correct, so far as the shore line is concerned only.

Q. Well, if you make your township lines conform to the township plats of the shore lines, it would run consistently through there, would it not, North and South and East and West?

A. They might, and might not, you have to do quite a bit of juggling on a map to that scale anyway.

Q. (Mr. Frost) Mr. Benson, as a matter of fact you received this map as plan map with a lot of contour lines on it, did you not?

A. Yes, sir.

Q. Could you not just as well have superimposed a portion of some County in Idaho, or a part of King County, or a part of Pacific County, on this as a portion of Clallam County?

A. Well, a good many portions I think I could.

Q. Without regard to these contours?

A. Without the contours, you could, yes, sir, so far as the looks are concerned.

Q. There was nothing on this map in section corners or township lines or anything else to identify this as a portion of Clallam County? It may have been King County or Pacific County, or anything else, might it not?

A. As far as the county was concerned.

Q. This was laid on afterwards to show a por-

tion of Clallam County over contours to be found on the map."

A. Yes.

(Witness excused.)"

H. H. WOODS recalled by defendants, testified as follows:

DIRECT EXAMINATION.

Is county treasurer of Clallam County; elected in 1914; his opponent was Cliff Babcock; at the general election it was Mr. Hallahan. Witness has no knowledge, and has never heard of the existence of any conspiracies or agreements, or contracts for discrimination as plead by plaintiffs or otherwise. None such existed to his knowledge. He is pretty sure he would have heard of it if it had. Witness was clerk in the grocery store of which the proprietor was much mixed up in politics, and usually came to witness and told him everything he heard about politics. Witness thus, usually got the run of pretty nearly everything that was going on. Witness was deputy auditor for twelve months. He conducted a pretty spirited campaign against Mr. Hallahan. If statements, rumors, or allegations of the kind plead by plaintiff had been floating around, witness would have taken advantage of them, but he did not hear any. Witness' campaign was from one of the county to the other on a bicycle, a house to house canvass.

"And thereupon the following testimony was introduced on behalf of the plaintiffs in rebuttal.

MR. PETERS: It is understood by counsel at this time that the depositions taken heretofore in this cause under stipulation of plaintiffs and defendants are published and offered in this cause, awaiting the ruling of the Court upon the objections therein made or that may be thereto made, by the Court hereafter, the depositions offered by plaintiffs being those of J. A. Adams, William W. Garlick, R. W. Shumacher, S. J. Lutz, Benjamin N. Phillips, James P. Christensen, contained in plaintiffs' exhibit "DD".

It is admitted that the plaintiffs in each of these

four cases have tendered to the treasurer of Clallam County and have kept good by a tender in court of the amount respectively alleged as tendered in their bills of complaint."

E. W. POLLOCK, recalled on behalf of the plaintiffs, testified as follows:

DIRECT EXAMINATION.

He is the same witness who has made a report of the appraisal of shingle mills. Witness has made an investigation of the valuation, and a tabulated statement of the properties of the Puget Mills and Timber Company, at Port Angeles; this being based upon the same method of examination, valuation and appraisal, as adopted with reference to shingle mills. It was made on the fifth day of the present month. The appraisal was made of the property as it stood at that time.

Defendants counsel object to the introduction of this evidence of an appraisal made in the month of September, 1915, as not reflecting the condition of the values in March, 1912, 1913 and 1914.

"Q. What did you find from your personal investigation of the physical property?

A. The sawmill building, \$50,000|00; machinery, \$103,362.00; shafting, \$9383.70.

Q. Have you got a copy of that that you can hand to counsel?

A. I gave you a copy the other day.

MR. FROST: Why can't you file it?

MR. PETERS: Does this list of five pages here which will be marked for the purpose of identification as plaintiffs' exhibit "EE" represent the results of your investigation?

A. Yes, sir.

Q. And the value of the physical property of that milling plant?

A. Yes, sir.

Q. How did you reach the valuations which you placed thereon?

A. Mr. Longley and I went through the

plant, listing each machine separately, and each set of rolls, and transfers and each conveyor, and making items of all the principal items or property throughout the plant. We have that in manuscript, the notes that we took at the time. It is priced in greater details than the summary in typewriting.

Q. How did you arrive at the prices or values that you put on these articles?

A. We priced the machinery largely from our records in our office of that kind of machinery, and we made estimates as we went along of the labor and the millwrighting and other features which were built into the plant which would require a personal examination.

Q. What are those records which you have in your office? What do they represent?

A. We have appraised a great many sawmill plants, some larger and some smaller than this, and we have had occasion many times to price the same sort of machinery that we found in that plant. We had recourse to the comparisons in many instances for the purpose of verifying our prices.

Q. Did you make such comparison in this instance?

A. We did, yes, sir.

Q. With other machines in your listings and records and so forth?

A. Yes, sir. Some of the machines we got prices on after coming back, on the 6th, from the people who furnished the machines here in the city, and we got the prices direct from them.

Q. What class of people were those; were they dealers, manufacturers or what?

A. Manufacturers and dealers. The North Coast Dry Kiln Company furnished two dry kilns, and the Archer Blow Pipe people furnished a blow pipe, the Dust Collecting System.

Q. To this plant?

A. Yes, sir.

Q. Did you make inquiry of them as to their price list?

A. Yes, sir. We inquired what the contract price was for the particular work that they did on that plant, and several others that we got. That was to verify our own impressions of what the prices were.

Q. What did you find to be the total value of the real and personal property of Mike Earles Milling Company?

MR. RIDDELL: We object to the witness as not being qualified to express an opinion as to the value of the real estate there.

A. I will say that we did not take the real estate, nor did we take the horses, or the stock of goods in the store, or the furniture and the fixtures in the boarding house. We did not have access to those parts of the plant, and we were unable to price those things, or the stock of beltings, and square parts and stocks of iron we did not take. We took the permanent plant.

Q. At the bottom of page 5 you have totaled the real and personal amount to a certain figure; is the real estate included in that?

A. No, sir; the real estate is not. "Real" there means the improvements, such as buildings, and the parts of the plant that were decided in that Chehalis County case to be real property as distinctive from personal property.

Q. So that in this list, at the bottom of page 5, real property does not refer to that?

A. No, sir; no land.

Q. What did you find to be the total value of the personal property and the improvements, buildings, etc., which you have placed here under the head of "real property", of that milling plant?

A. \$654,689.15.

Q. Was that made up upon the same plan that you investigated and reported upon the mills and manufacturing plants in the Chehalis County case?

A. Very much the same.

MR. PETERS: I think it is understood with respect to this tabulation, Exhibit EE, that the witness testified to each one of these items in the same manner we assumed with respect to the witnesses upon

real estate values and that you reserve your objection to the competency just the same, but not on the ground that we do not require him to state verbally each one of these items.

MR. FROST: No. We agree to that.

Plaintiff's Exhibit EE received in evidence."

On cross examination witness says the valuations given here are the depreciated values, on the same basis as given with respect to the shingle mill. Witness thinks this however, would be the fair cash value within the definition of the tax law.

"Q. Wouldn't you make the same distinction between depreciated value and fair cash market value that you made the other day?

A. This plant was brand-new on the 1st of March 1914, and that was the cash value, in my opinion, and would certainly be at the time, what the owner had just paid for it at that time.

Q. But the appraisal that you made there is an appraisal of what you call the "depreciated value", as that term was used when you made your appraisal of the mills in Chehalis County?

A. Yes sir; this would correspond to the depreciated value.

Q. It is an appraisal of the character that you would make for insurance companies and banks, as testified to the other day?

A. Yes sir; it does not have all the details that we would usually make, but it is made in the same way.

Q. And on the same theory?

A. Yes sir.

Q. (Mr. Frost) When you referred to the 1st day of March, 1914, did you assume to say that this mill the 1st of March 1914 was in the same condition that you found it in the other day?

A. I would assume that from my investigation it was practically the same?

I took the same pains to find out about when it was built, and the machinery people who furnished the bulk of the machinery told me——

MR. RIDDELL: We object to what the witness was told by the machinery people.

Q. (Mr. Frost) What do you know about the condition of the mill on the 1st of March 1914 of your own knowledge?

A. I did not see it at that time, but I saw it about a year before that, and it looked like a pretty good mill at that time; that was three years ago.

Q. As a matter of fact, isn't it a fact that the mill was not going three years before the 1st of March?

A. I saw that plant when I was appraising the Minden Canning Company; I do not remember how long ago that was, but it was in the neighborhood of three years ago, and the frame of the building was pretty well up; it was up, in fact, of the big mill.

Q. Do you know when that mill began its operations from your own knowledge?

A. I was not there, but I have looked into it and inquired, and they told me—

MR. RIDDELL: We object to what the witness was told.

WITNESS: I was not there and I cannot say it of my own knowledge, but it was about the very near the first of March, I think. The machinery would have to all be in place by the 1st of March in order for them to start within a month or two thereafter.

Q. (Mr. Ewing) That is an assumption that you made yourself?

A. Well, it is my assumption based on experience.

Q. But you don't know what the actual facts were?

A. I was not there.

Q. (Mr. Frost) You don't know of your own knowledge whether the mill has been in operation a year and a half or over six months, do you?

A. I don't know exactly how my own knowledge would be interpreted. I am positive in my own mind that it commenced in March or April of 1914, April, or possibly May, the 1st of May, in that neighborhood.

Q. (Mr. Ewing) Was the mill in operation

when you made an examination on the 5th of this month?

A. It was on Sunday that I was there, and I left early Monday morning; yes, it was operated.

Q. The figures that you put in for machinery were the contract prices that were given you by the people who sold the machinery to Mike Earles' mill?

A. That was the case with the North Coast Dry Kiln Company, and the others that I got.

Q. As far as you could find them, you put in the contract prices?

A. Yes sir."

The depreciated value which witness made in the exhibit EE is confined strictly to the value of each piece solely with reference to its relation with the plant of which it is a part. A plant might be removed at such a distance from the material upon which it works that it may have a commercial value of only about \$40,000 and yet it would have exactly the depreciated value that the witness has given here; but the witness states that that was not the case in this instance. The witness made a physical examination of the various items comprising the plant.

"Q. If the shingle mill was put down in the middle of the prairie with no shingle material, no shingle bolts available for use in the mill at all for manufacturing purposes, so that as a commercial possibility it would be worth nothing at all, yet on an appraisal of its various parts and their relations to each other it could be made just the same as you have made this appraisal of the Earles mill, isn't that true?

A. Yes sir."

A tabulation of shingle mill assessments was introduced in evidence by plaintiff as exhibit "FF".
(Witness excused.)

JOHN HENRY ROBINSON, witness on behalf of the plaintiff, testified as follows:

DIRECT EXAMINATION.

Is connected with the Northern Pacific railway Company; lives in Seattle. He is a clerk to the Divi-

sion Superintendent. Has been in the railroad business for seventeen years. As such he is acquainted with the tariff upon shipments of logs by the N. P. Railway Company, and the tariff of such during the years of 1912 and 1914.

Witness produces a tariff sheet published March 30th, 1914, which plaintiff has marked as exhibit "GG". This witness says, is the tariff rates published under the Inter-State Commerce Act.

"Q. I will ask you to refresh your recollection by referring to that card, and tell me that rate, what the tariff is?

MR. FROST: I object to that as being incompetent, immaterial and irrelevant.

MR. PETERS: Do you make any objection to the fact that this is a sheet for 1914.

MR. FROST: None at all. We will concede that the rates named therein were the rates substantially for the years 1912, 1913, and 1914, but we object to the class of evidence.

MR. EWING: That is a fact; there has been no substantial change.

WITNESS: No sir, no change.

MR. RIDDELL: We want to further object on the ground that the evidence is hearsay and fixed by an independent party, and not binding upon any of the parties to this suit.

Q. (Mr. Peters) Mr. Robinson, will you refresh your recollection by referring to that distance sheet there and give me the rate charged for the different distances up to say, from forty to fifty miles?

MR. RIDDELL:: Mr. Robinson, have you any knowledge of that rate, independent of the paper?

A. Well, yes, sir; it frequently comes under my personal observation.

Q. And when it does you refer to the paper?

A. Sure.

Q. And outside the paper, you don't know anything about it?

A. In what way?

Q. You do not know what the rate is outside the paper?

A. The point is, that I know what many of the rates are.

Q. Do you know what the rate on logs is independent of the paper?

A. Yes, sir; in some instances, but it is rather a long tabulation to remember; so I would not try to remember all of them; I might become confused.

Q. You get your rates from the paper in the first place, don't you?

A. Sure.

Q. And when you want to go back to it,—when anybody wants a rate quoted, you go to the paper again?

A. Yes, sir.

Q. And the only knowledge which you have obtained of the rates is from the paper?

A. Yes, sir.

MR. RIDDELL: I object to the testimony as the paper is the only evidence in the case and he has no independent recollection except from the paper; but the paper is the best evidence, if there is any evidence.

Q. (Mr. Peters) Mr. Robinson, if you had occasion to give the rates to a personal shipper, where would you get that information?

A. We would go to this tariff sheet and quote him the distance.

Q. Is that a fixed staple rate for all customers?

A. Yes, sir, unless there is a rate specifically named; but if there is not a rate specifically named between two special points, then we refer to the distance table, and that is the rate that shall govern.

Q. (Mr. Frost) Your rate from Darrington to Everett or Snohomish, for instance, would not be a distance rate?

A. I think there is a rate from Darrington.

Q. There is a special rate from Darrington?

A. Yes, sir.

Q. That would be less than the ordinary distance rate, wouldn't it?

A. Yes, sir.

Q. And that would be shown upon this tabulation?

A. Yes, sir.

Q. In other words, you do make special rates under certain circumstances?

A. Yes, sir; the local conditions and circumstances and other things govern.

Q. In other words, this distance tariff is not the controlling factor?

A. It is the basic factor.

Q. But you do make rates that are much less than the distance tariff?

A. Some less, but local conditions govern them very largely, in fact, altogether, you might say.

Q. Isn't it true that you make a lower rate upon your branch line roads than you do on the main line roads?

A. No, I could not say that.

Q. (Mr. Peters) If you will give me then the distance.

A. This is the rate in dollars per thousand feet, ten miles or less, one dollar; over ten miles, and not over 15 miles, \$1.25; over 15 miles and not over 20 miles, \$1.35; over 20 miles and not over 25 miles, \$1.40; over 25 miles and not over 30 miles, \$1.45; over 30 miles and not over 35 miles, \$1.50; over 35 miles and not over 40 miles, \$1.55; over 40 miles and not over 45 miles, \$1.60; over 45 miles and not over 50 miles, \$1.65.

Q. Then, Mr. Robinson, from what is that table made?

A. In what way, Mr. Peters?

Q. Mr. Frost has asked if on the Darington branch, for instance, if there was not a special rate charged; and you did explain that to some extent; will you explain the application of this table to the shipment of logs generally. Does it control, or what feature is it in your tariff regulation?

A. Well, that is the rate at which the logs can be transported.

Q. Has that been made up upon the experience of your railroad in that particular business?

A. Yes, sir.

Q. Have you ever had occasion to examine into the question as to whether the shipment of logs at these rates was a profitable undertaking of itself for your company, or not?

MR. RIDDELL: We object to that as purely hearsay and not binding upon any party to this record. It is incompetent, immaterial and irrelevant.

MR. FROST: And upon the further ground that this witness is not qualified to testify.

A. The question of the handling of logs is coming up constantly, being one of the principal articles which our division handles, and it is a matter of common knowledge to the operating officials, and I may say that I have been present at a large number of these conferences wherein it is known that the handling at these rates was unprofitable to the railway company.

Q. You are referring to the Northern Pacific Company?

A. Yes, sir.

Q. Which is a transcontinental line?

A. Yes, sir.

Q. And the sheets are made up of the general business throughout the field in Washington of the Northern Pacific Company's business?

A. Yes, sir.

Q. And that tabulation would be of the business done upon its branch lines as well as upon the main line?

A. Yes, sir; within the state of Washington.

CROSS EXAMINATION.

BY MR. FROST:

Q. Mr. Robinson, is it not true, that the railway officials consider the handling of logs not desirable and not profitable, because it is a part of the fixed policy of railroads to use all of their power to have the logs manufactured along the line of the road in order that they may get a much higher rate

than is charged for moving manufactured lumber, and the lack of profit in the log hauling is not the lack of profit, but the loss of what they might term, "anticipated profits" that they would make as a profit on those logs were they manufactured into lumber along the line of the railroad and the lumber hauled at a higher rate?

A. You are touching now on the life of the railroad.

Q. Answer the question, is that not true?

A. Partly so.

Q. As a matter of fact, isn't it true, just as I have stated, as I have asked before?

A. Give me the question again.

Q. (Question read.)

A. Well, it is true that the railway company desires, wherever possible to secure for itself a haul on the finished product, but I cannot say that I have ever known them to use their power to force logs to be sent to any point where they would get the finished product haul.

Q. Is it not a matter of fact, however, well known to you and to railroad officials generally, that the railroads do not desire to haul logs?

A. Yes, sir.

Q. That the railroads are endeavoring, and they purposely put a high rate upon logs in order, if possible, to force the cutting of lumber along their lines in order that they may have the higher rates that obtain upon the manufactured product?

A. Oh, I could not say that; because the statistics and the rates do not bear it out."

Witness says that his company is now shipping logs from Darrington to Everett, or Darrington to Fremont, and the rate is \$1.70, per thousand, a distance of 82 miles. Witness admits that they have been carrying logs for the Standard Railway and Timber Company from Hazel to Everett, a distance of 48 miles, but he does not recall what the tariff is; but it is much less than the distance tariff, probably about 50c a thousand less than shown on this schedule. He

thinks the rate is \$1.25. The distance tariff shows \$1.70, or, rather, \$1.65. Witness says this, however, is on a train of logs of ten or more cars. The tariff which witness has testified to, governs single shipments of one carload, or twenty carloads, or forty carloads, but where logs are shipped in trainload lots the tariff may be less.

“Q. The rate can be made less, and usually is made less?

A. Yes, sir; that is fair. If you put twenty empty cars on a siding and shove them in there and you come along the next day and you find the twenty cars all loaded there, all coupled up, and the air coupled up ready to go, it is a certainty that it costs you less than to go to five or six or seven different camps and connect up two or three cars.

Q. Then what you mean to say from this is that this distance tariff that you have testified to here is deviated from in a great many instances, depending upon the number of cars, and upon the contract that the loggers may be able to make with you, is that true?

A. Local conditions govern those.

Q. And then this distance tariff is simply a tariff fixed for the information and guidance of your station agent in localities where there has been no special logging rate?

A. Yes, sir.

Q. And that is the sole purpose of it, isn't it?

A. Yes, sir.

Witness further states that of his own personal knowledge he does not know whether the Northern Pacific is making a profit in hauling logs, or not, but from general information he understands that they are not. Witness has never had the operation of an exclusively logging railroad. He does not know anything about the cost of hauling logs over logging railroads with logging equipments. Witness says it would cost the same to move a ton of silk a mile, as to move a ton of logs, but the rate would probably be ten times as great; so, with a ton of wheat; they

charge as much for hauling wheat as for hauling logs. As to coal, witness does not know, as he has not figured that out.

“Q. (Mr. Peters) As I understand you, Mr. Robinson, this sheet that we desire to introduce in evidence, or this tariff sheet, with respect to freight on saw logs, exhibit “GG” is that which has been regularly published and has become in effect with the interstate commerce and also with the railroad commission laws of the state?”

A. Yes, sir.

MR. PETERS: I offer this exhibit in evidence as exhibit “GG”.

MR. FROST: It is objected to as being, incompetent, immaterial and irrelevant.

Q. And that the sheets for 1912 and 1914 were substantially the same?

A. Yes, sir.

MR. PETERS: I understand that counsel concedes that without bringing the witness up again?

MR. FROST: We will concede that the sheets are substantially the same rate.

(Witness excused.)”

FRANK T. BURROUGHS, a witness on behalf of the plaintiff testified as follows:

DIRECT EXAMINATION.

Witness is with the traffic department of the Milwaukee railroad, is freight agent of this railway, and of several of its subsidiaries in Montana and Washington. Witness is familiar with the tariff for the hauling of logs on the road of the Milwaukee west of Port Angeles, in Clallam County. Witness has the tariff for such with him. Witness produces a tariff sheet as the Washington Public Service Commission No. 3, issued by the Seattle, Port Angeles & Western Railroad. It has been honored by the Public Service Commission. Witness is asked what is the rate on the log haul. That is objected to by defendant as being incompetent, immaterial and irrelevant. Witness says the longest haul is 25.2 miles from Earles to Bay Side

at Port Angeles, and the shortest haul is probably seven miles, from Erickson's Spur. The rate for the longest haul, 25 miles, is \$1.50 on logging flats, equipped with patent boxes, and \$1.45 for unequipped cars.

Plaintiff introduces this tariff sheet as plaintiffs exhibit "HH". It is objected to on the part of the defendants on the ground of incompetency.

The rate for the short haul of seven miles is \$1.15 and a \$1.10 respectively per thousand feet. Witness thinks that the Milwaukee railroad starts at its present western terminus, and is about six miles from Port Crescent.

DAN EARLE, one of the plaintiffs' counsel, testifies for plaintiff as follows:

DIRECT EXAMINATION.

Witness has represented the plaintiffs in Clallam County since 1913, but with reference to the investigations in this matter, since January, 1914. Witness did most of the examination of the tax rolls for plaintiffs referred to in this case. His work was done the last week in the month of January, 1914. Witness being asked as to what knowledge or information the plaintiff had as to the over-valuation of timber, and the under-valuation of other classes of property in Clallam County, answers, over the objection of defendants, as follows:

"A. I will say that nothing definite was known prior to the time on which this investigation work was started. The work was requested, as far as my connection with it was concerned, because of suspicions to this effect had by the plaintiffs. They asked me to make some investigation of it, and that was begun by examining the assessment records and comparing them with the conveyancing records, showing the sales made of real estate beginning about May of 1913, and running through the month of January, 1914. The method of the work in its beginning was this: An examination was made of all of the conveyances appearing of record between those dates made. Most of those conveyances show merely a nominal consid-

eration, but where from the instrument was apparent, or seemed apparent, that the consideration named was the actual one such an instrument would be noted, the description, the parties, the date of the conveyance, the date placed of record. This was tabulated then to form a basis of comparison between those considerations and the assessment of the same properties as they appeared on the assessment roll. There was something over two hundred transfers noted and these were taken from the various parts of the County, practically all over the county. Most of those transfers, however, had taken place within the town of Port Angeles. And the ratio which the assessed valuation of this property bore to the consideration in the instruments shown was then computed and this ratio was reported to the plaintiffs as forming some basis for comparison between the assessed and the real valuations in Sequim and Port Angeles and of the timber lands.

Q. When was this report made to the plaintiffs?

A. It must have been made between the fifth of February and the middle of the month, of 1914. There was some several days elapsed before we could compute those percentages and report on them.

Q. Prior to that time what action had been taken by the plaintiffs to your knowledge—prior to February, 1914, what, if any, action had been taken by the plaintiffs with reference to their supposed over-assessment and discrimination against their timber properties in taxation?

A. Outside of protests made to the Board of Equalization no action had been taken, because, so far as I know, no definite investigation had ever been made, nor had any actual facts been discovered or reported to them.

Q. When were the facts upon which they based these bills discovered by them?

A. Well, the facts, so far as I know, were first reported to them in my report about the middle of February, and following this report I sent to Mr. W. J. Ware of Port Angeles to get an opinion of some

local real estate man on these valuations. I also had some information secured from Mr. Horace White, Mr. John M. Bell, both of them real estate men in Port Angeles and the opinions of these three men as verifying the reports made on the basis of the percentage computed on the results of this search and the assessment and the conveyancing rolls, all of this information was reported to the plaintiffs. Mr. Ware made a preliminary oral report to me on specific properties in Port Angeles, which had been conveyed, and especially this much I had noted from the search I had made. Mr. Ware then, at my request—

MR. RIDDELL: We object to this testimony. The testimony may be competent, undoubtedly is, to show when,—if at all discovery was made, but as to what was done at or about the time the suit was started is absolutely immaterial in this case. The only competent testimony, as we take it, would be that which went to show that the plaintiffs had no knowledge before that time. Any other testimony or testimony tending to show any other facts we want to make our objection to as being incompetent, immaterial and irrelevant and simply a self-serving declaration on the part of the plaintiff.

MR. PETERS: I think counsel is largely correct in that.

Q. Mr. Earle, did the plaintiffs have prior to February, 1914, any information along the lines of that obtained by the report of Mr. Grasty and your own investigation to your own knowledge while you were in charge of affairs to them?

A. None that I know of. They so stated to me.

MR. RIDDELL: I move to strike out that last as not responsive to the question and entirely a self-serving declaration and hearsay and not proper evidence in this case, and we ask that the statement what they told the witness be stricken.

Q. Were you in charge of matters for them at that time out here?

A. In so far as the securing of any data on

which to base a complaint of discrimination in the matter of assessments.

Q. Who was in charge of the protests before the Board of Equalization, or made appearances there?

A. We made protests for——

Q. Whom do you mean by “we”?

A. I made personal protests for the years 1913, 1914 and 1915.

MR. PETERS: It is conceded that there is no assessment of bank stock which has been put in evidence by plaintiffs’ here for the year 1912, and 1914 other than the assessments to the banks themselves in the stipulation regarding the record which is put in here.

MR. FROST: We will admit that is the whole assessment of the stock of the banks mentioned and that there was no assessment of the stock of the individual holders.

WITNESS: I wish to add that this map which has been introduced in evidence as showing the valuations prepared by Mr. Ware on Port Angeles property was prepared by him for me in the last week of February, 1914, and was one of the sources of information on which I based my report.

MR. RIDDELL: We ask that that statement be stricken out and it is not responsive to any question and being objectionable under the same objection that was made before, that a statement of what evidence or what knowledge that the plaintiffs had in this case at or about the time they began suit has nothing to do with the question of their laches in the case. The question is a simple one as to how early they got knowledge and not what they may have done at that time.

Q. (Mr. Peters) The map which you refer to is identified as plaintiffs’ exhibit “C”?

A. Yes, sir.”

On cross examination witness says: He began his employment for the plaintiff in the year 1913, in July. His personal knowledge, however, goes further

back than that. About two years prior he had been employed by plaintiffs to examine the proceedings of the Board of Equalization.

Witness admits he has heard the testimony of numerous witnesses as to the existence of a boom in real estate in Port Angeles. Witness does not know anything about the boom. He was in Olympia at the time.

“Q. You did not discover that real estate in the city of Port Angeles was greatly under-assessed until this boom had taken place?

A. I did not know about the boom. I was in Olympia at the time that boom was taking place.

Q. The witnesses have testified that the boom began in the fall of 1912, and terminated along in the winter of 1913, which was subsequent to the boom that you discovered that real estate in Port Angeles was very much under-assessed in your opinion?

A. Yes, sir; so far as that date of the boom can be fixed.

Q. In making your investigations you compared the prices of—I believe you say that you began in May, 1913?

A. Yes, sir.

Q. And concluded your investigations in February, 1914?

A. Yes, sir.

Q. And that the fact that real estate was made in 1913?

A. Yes, sir.

Q. And in making your comparison, then, you, of necessity, compared the prices that then obtained for the real property with the assessment of 1912, did you not?

A. It was the last—it was the current assessment.

Q. You are familiar with the fact that real estate is only assessed biennially?

A. Yes, sir.

Q. And that the last assessment of real estate was made in 1912?

A. Yes, sir.

Q. And in making this comparison you are comparing 1913 and 1914 valuations with assessed value of 1912?

A. Yes, sir, I think so.

Q. And that is in other words, you were comparing the inflated values that followed the boom with an assessment that took place prior to any boom?

A. I would not say that.

Q. That is a fact, is it not, if there was a boom?

A. If the prices were inflated that might be the fact, so far as Port Angeles alone was concerned; but you must remember the investigations went to the sale of lands all over the County, back in Sequim, and timber lands and everything else, and was intended to be an investigation of the relation of real to the assessed valuations all over the County, and covering all branches of real estate.

Q. But it is a fact relating to the real property in the City of Port Angeles, is it not?

A. Yes, if you refer to the fact actually——

Q. That your comparison of actual values, or market values, as you term them was made of values subsequent to the boom, if there was a boom, and compared with an assessment that was made prior to the boom, if there was such a boom, just as to the city of Port Angeles?

A. I would have to qualify that by explaining that sometimes these conveyances were made some time prior to the date of recording. I took the conveyances appearing as having been recorded between May of 1913——

Q. That is subsequent to the boom, is it not?

A. That date, when the boom subsided has been so variously stated that I would not attempt to compare any dates.

Q. It would not be beyond the winter, or February of 1913?

A. I can only say, Mr. Frost, that the transfers compared with the assessments were the transfers recorded between May 13th, and the end of January,

1914, and they were compared with the then current assessment.

Q. Which was the assessment of 1912, as a matter of fact?

A. Except insofar as it had been raised in 1913.

RE-DIRECT EXAMINATION.

BY MR. PETERS:

Q. Mr. Earle, I will ask you whether or not in your investigation at that time, February of 1914, you made an investigation as to what was the market value of Port Angeles real property in 1912?

A. No, I don't think I did.

Q. In talking with Mr. Ware and Mr. White, as you have stated, who gave you the valuations of real estate, did you inquire from them and learn anything from them at that time as to the valuations in 1912, or 1913?

A. The only statement that I recall was that of Mr. Ware, who stated that the real market value of Port Angeles property had not changed in his opinion during the last two years.

(Witness excused.)

MR. PETERS: With the consent of counsel at this time the plaintiffs offer in evidence the contour map of the Eastern half, the contour map of Clallam County outside of the forest reserve to correct the error in the ranges as testified to by Mr. Benson, the error being an error of one mile in the ranges as testified to by Mr. Benson. It is understood that the range lines were superimposed upon this map by Mr. Benson in the same manner in which he testified that he had superimposed them on the other map save that they are correctly spaced in this map.

(Map referred to marked plaintiffs' exhibit "I-I" and received in evidence.)

Plaintiffs introduced in evidence and read in evidence the depositions taken and hereinbefore filed, of R. W. Schumacher and J. P. Christensen, and the defendants introduced in evidence and read the deposition of J. A. Adams, and the following portion of

the testimony of William W. Garlick: Page 47 lines 6 to 22 inclusive; page 50 line 25 to line 2 on page 51; page 52 lines 3 to 18 inclusive; page 57 line 21 to line 30 inclusive; all the cross examination of the witness Garlick, re-direct examination and re-cross examination. Testimony of Charles F. Seal page 66 lines 6 to 13 both inclusive, and all of the cross examination of the witness.

Causes 36-37-56-57.

DEPOSITIONS OF WITNESSES

J. A. ADAMS, produced as a witness on behalf of the plaintiffs, having been first duly sworn to testify to the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

MR. RIDDELL: It is understood, as I understand it, that these depositions may be introduced by either side. That was not formerly incorporated in the stipulation, but that is the understanding now.

MR. EDWARDS: Yes, sir; you could do it any way.

Q. (Mr. Edwards.) Mr. Adams, you live at Sequim?

A. Yes, sir.

Q. How long have you lived there?

A. This August it will be seven years since I came here.

Q. How have you been engaged since that time?

A. That would be hard to say; I guess, the first two years I was engaged in fixing up my home, and since then I have been loafing around, and looking after the building of roads here, for two years, part of the time.

Q. This community has grown considerably since you came, has it not?

A. Yes, sir.

Q. And developed its agricultural resources and otherwise commercially?

A. Yes, sir.

Q. You have owned considerable property here yourself?

A. Well, I do not know; I do not think it would be called considerable. I have owned three or four hundred acres of land at one time.

Q. You have sold it?

A. I sold out most all of it.

Q. Have you sold for others?

A. Well, in a way I have; I have went around—

Q. I do not mean on commission, but you have helped people to sell?

A. Yes, sir; for instance, I would meet you, and you would tell me that you wanted to buy a home, and I would give you prices and tell you where I thought was the best place, and would be instrumental in getting a place sold in that way.

Q. You have been familiar with sales in this country and throughout the country round about?

A. Yes, sir, I know pretty much all the sales that have been made in this country.

Q. Including Dungeness?

A. Yes, sir, with most of the sales made down there.

Q. You now have a real estate office?

A. Yes, sir; but I have done no business there since I have had it.

Q. You sell other people's property, or have your own for sale?

A. Yes, sir.

Q. What sales have been made in the community within the last year?

A. In the last year I do not know whether there has been any.

Q. Within the last two years, we will say?

A. There has been very few in the last few years, almost nothing doing here. My brother bought two pieces of property here two years ago, and I sold several pieces about two years ago.

Q. Do you remember any special piece? Is one of the pieces that your brother bought the one on the road towards Port Williams?

A. Yes, sir; that is 40 acres.

Q. That is the southwest of the southwest quarter of section 8, township 30, range 3?

A. I do not know. It is right on the State aid road through the cut over there; I know that, just a mile and a half from town, and right north on this State aid road, right here.

Q. There is a township map, I think probably you can locate it on that.

A. I am a poor hand in locating lands. This is the center of the section, and Greening is right there, and this is—there is section 20.

Q. How far from this corner is your brother's land?

A. A mile and a half.

Q. Then it is the southwest of the southwest quarter of section 8, range 3 West?

A. Yes, sir; that is right.

Q. What was the amount of this sale?

A. \$1500.00.

Q. What is the land worth today?

A. He is asking \$3000.00 for it. He has been asking that for it ever since he bought it, but he has not sold it.

Q. It is worth that, isn't it?

A. I think so; I think it is the best bargain around here, as far as that is concerned.

Q. (Mr. Riddell.) This was bought by your brother two years ago?

A. Yes, sir, it was bought by my brother two years ago, T. H. Adams.

Q. (Mr. Edwards.) That land was cheap at that, don't you think?

MR. RIDDELL: I object to that as leading.

Q. (Mr. Edwards.) Do you think of any other special case where there was a sale?

A. Right west of that, across, I sold 20 acres on five years time at thirty dollars an acre.

MR. RIDDELL: I move to strike out the answer on the ground that the sale was not for cash, but was on time.

MR. EDWARDS: No objection to that. Do you want it stricken?

MR. RIDDELL: I guess not.

Q. (Mr. Edwards.) Can you point that out on the map?

A. It was in this 40 acres here, right across the road.

Q. It is the southeast of the southeast of section 7, in the same township and range?

A. Yes, sir.

Q. To whom was that sold?

A. To a fellow by the name of Burton.

Q. How much, 20 acres?

A. 20 acres, yes, sir. That was at \$30.00, five years time, 6% interest.

Q. That was all uncleared land, was it?

A. Yes, all but about one acre.

Q. How much of it is on the hill, rocky?

A. None of it is rocky.

Q. Some is on the hill right opposite your brother's land?

A. The first ten, which joins my brother's place, to Fitz Henry. I sold last year ten acres right in the same forty acres to a fellow for \$40.00 an acre. That is bottom land, four acres cleared on that, five years time, 6% interest.

Q. And that was uncleared?

A. All but four acres; four acres were cleared on it.

Q. The rest of it was the original woods?

A. In the bottom; that was all bottom land, cleared of stone.

Q. Do you recall any other sales?

A. Ten acres which my brother owns, which adjoins the corporation.

Q. Can you locate that on the map?

A. Right here. (Pointing.)

Q. It would be in the northeast of the southwest, of 19, the same township and range.

A. Yes, sir.

Q. There your brother bought ten acres?

A. Yes, sir. A two room house and a chicken house. It was a chicken ranch.

Q. His initials are T. H.?

A. Yes, sir.

Q. From whom did he buy?

A. George somebody, I forget the name.

Q. What did he pay for that?

A. \$900.00.

Q. Does he still own that?

A. Yes, sir.

Q. Do you recall any others?

A. No, I do not know of any others now. There has been very little land changed hands here in the last two years.

Q. How about over the Dungeness way?

A. I do not know of any piece there that has changed hands in the last two years, unless it would be that Toby land. I forget what he paid for it. That is the only place I know of. It might have been four years ago; I don't remember. Mr. Dick there sold it.

Q. You don't know what the price was?

A. No, sir, I do not. I did at the time, but I have forgotten. I heard at the time.

Q. You don't think of any other sales around in that community of Dungeness?

A. No, I do not.

Q. Do you know the value of that Toby land?

A. No, I do not know the value?

Q. Have you any opinion as to the value of it?

A. No, sir, I have not. I knew the place sold for less than the improvements are worth. You could not cut the timber off of it and cut it up for less than it sold for.

Q. Do you know the Henry McAlmund place?

A. Yes, sir.

Q. Have you any idea what the improved land on that place is worth?

A. No, sir, I have not. Those people down there, most of them, haven't got any values on their places. They do not want to sell.

Q. The land is worth something?

A. Sure. I know one thing, that there are very few places in this country, if you count paying the cost of your buildings, and the clearing of the land, that you can make five per cent on the money invested in this vicinity. There are very few places in this country that you can do it.

Q. Have you any opinion as to the value of any piece of land over there at Dungeness?

A. I think the most of those places would take about \$200.00 to buy them. That would not buy them, as far as that is concerned.

Q. They are not willing to sell at that?

MR. RIDDELL: Let him finish his answer.

A. They have got it as a home like my home down here. I would not take anything like what it ought to be sold for. It is not worth it. It is not worth what it cost me to put it up.

Q. You have forty acres where your home is, haven't you?

A. Yes, sir.

Q. Do you remember the description of that?

A. No, I do not. It is in section 18, though.

Q. Can you look at the map and tell?

A. Yes, sir. It is in the northeast of the southwest of section 18, township 30, range 3.

Q. That is all improved?

A. Yes, sir.

Q. And under irrigation?

A. No. There are about ten acres in the woods; the heavy timber is all lying, the stumps on it.

Q. And thirty acres improved and under cultivation?

A. Yes, sir.

Q. You do not farm it yourself, do you?

A. No, sir. I rent it.

Q. That is irrigated, too?

A. Yes, sir.

Q. It is productive?

A. Yes, sir.

Q. And you have it rented?

A. Yes, sir.

Q. What is the annual rental that you get?

A. Six hundred dollars.

Q. That is for the thirty acres?

A. No; there are ten acres in the woods and stumps.

Q. Thirty acres under cultivation?

A. Yes, sir, thirty acres, under cultivation, and ten acres stumps and timber.

Q. The other land adjoining yours is the same quality?

A. Yes, sir.

Q. Improved land?

A. Yes, sir.

Q. And just as productive?

A. Yes, sir.

Q. And all irrigated?

A. Sure, yes.

Q. The same would be true of section 18?

A. Sure.

Q. All of 18?

A. All of 18.

Q. And how much of 17?

A. Which is that, going north?

Q. Going north?

A. That is nothing like as good land as 18.

Q. Some of it is?

A. Very little of it.

Q. Some is, and is as productive as that in 18?

A. Yes.

Q. And in 17, east from 18, that is level land, isn't it, under irrigation?

A. Not all of it, no, there is a lot of it—yes, sir, most of it, of 17.

Q. That is a mile north of town?

A. Here is the town. (Showing.) That is most all level.

Q. Practically all of 17 is level and is under cultivation and it is as productive land as your home forty, isn't it?

A. Yes, sir.

Q. How about this land in 20 and 21, east of town?

A. Most of that is all good.

Q. Most of it is under cultivation?

A. Yes, sir.

Q. That that is cleared and under cultivation is as good land, and is as productive as yours?

A. That that is level and can be watered, all this land that can be watered is as productive.

Q. As your home place?

A. Yes, sir; I do not see any difference in it.

Q. You know Mr. Noble's place down there, east and north of town?

A. Yes, sir.

Q. Can you call the description—

A. No.

Q. Well, the clearing on the Noble land is level and like all the rest of it that you have mentioned?

A. Sure, yes, sir.

Q. You do not recall how many acres of his is under cultivation?

A. No, sir, I do not. If I would say it, it would be a guess.

Q. Your home place is highly improved; that is you have a good dwelling on it, and other farm houses?

A. Yes, sir, good buildings on it.

Q. In order to get at the land itself, without the improvements, what do you suppose the improvements are worth?

A. I do not know. They are worth but darned little if you try to sell the improvements; worth a good deal more than if I would have to do it again. If I would do it over I would put up different improvements.

Q. What did they cost you?

A. I do not know. I shut my eyes and went after it. The red barn cost me fifteen hundred dollars, but the others I do not know, because I shut my eyes and checked it out and went after it until I got it fixed like I wanted it. I did not have any more idea what that place cost me than a man that never saw it.

Q. You have some idea what the improvements would be worth to a man that wanted to use them?

A. It would cost a man several thousand dollars to put them up there.

Q. How many thousands?

A. I do not know; but I know one thing; I know I put a good deal of money in there that I would not put in if I had to do it over again.

Q. They cost as much as ten thousand, the buildings?

A. No, sir, I do not think they cost that much?

Q. Seven?

A. I do not know what they did cost.

Q. They cost over five?

A. I guess you can't put them on there for five. The way I did it was, I brought my lumber and everything from Bellingham and that costs. I brought my carpenters and mechanics and everything over.

Q. It can be built a good deal cheaper now, can't it?

A. Sure, it can be built a good deal cheaper now.

Q. What could those improvements be put on there now for?

A. I guess I could put them on there for five thousand dollars. I could do it a great deal cheaper than I did when I put them there. I brought everything over on a scow and had it hauled up from Port Williams at very high prices, labor and everything was very high priced at that time.

Q. What do you consider your home forty acres worth?

A. I have got no price on it.

Q. I know you haven't.

A. It is like that you would buy an engine and boiler, and stick it back in the woods, and you are broke and busted, what are you going to do with your boiler? You sell it for scrap iron, just like if I wanted to sell that place, I could not get half my money out of it.

Q. Your home is just outside of the town limits?

A. I know that.

Q. And this is a thrifty community and a pleasant place to live, suppose you were willing to sell but did not have to sell, and someone willing to buy, but did not have to buy your place, wanted to buy it, what would be a fair price for it?

A. As I told you there is no price on it. I never studied about the price. A man that can go around here buying for cash, he can buy this land for one hundred and fifty, to two hundred dollars an acre; but take a man who is looking for a place and do not care for the buildings, fancy buildings, that I put there, he would not value them any more than he would a common house.

Q. The kind of land you can buy for two hundred dollars an acre depends on—what you can buy for two hundred dollars an acre depends upon several things; it is the location and character of the land, whether it is level, and whether it is susceptible of being irrigated?

A. Yes, sir.

Q. Take a piece like yours, the thirty acres that is all improved; land like that you cannot buy for two hundred an acre here, can you?

A. Well, if the man has the cash he can do it, without much improvements on it, he can buy for two hundred dollars an acre. I have got bigger prices on some of my land, but I am not selling it.

Q. Take the land without the improvements?

A. As I told you the other day, there are no sales going on, but they have got the prices up, and you cannot get them down, and what are you going to do?

A. Is there any land as good as your thirty acres, or about like that in this community that can be bought for two hundred dollars an acre?

A. Yes, sir; I can buy you land just as good as mine, there ain't a bush on it, cleared up, for two hundred dollars an acre.

Q. Can you cite me some?

A. Yes, sir, I told you the other day that there

was ten right down the road here, and one has got improvements.

Q. How about that other forty of yours that is in pasture?

A. Which forty is that?

Q. That you showed me that the calves were on?

A. I have got a big price on it, but I am not selling it.

Q. What was that price?

A. Two hundred and fifty dollars an acre.

Q. Could you locate it on the map?

A. Right across from my home forty. There is the house building over there, and a house over here, Fitzgeralds.

Q. That is the southwest of the northeast of 18, township 30, range 3?

A. Yes, sir.

Q. And you would not sell that for two hundred an acre?

A. Well, it depends. It is going to depend on what the future is going to bring. If I would see that I can't do any more than we have done, I would sell it for two hundred dollars an acre, but it is only a speculation with me, holding that land. I do not need the money. I have got no use for that money, and if I find somebody to loan it to, I would not make a bad debt and lose it, and I know that they can't get it from me in the shape of land.

Q. That is just as good as any other forty on the prairie?

A. Yes, sir, there is no better on the prairie.

Q. How about Guerin's?

A. He has got a good forty.

Q. That is Edgar Guerin, isn't it?

A. Yes.

Q. He is east of town?

A. Northeast.

Q. That is in section 17?

A. Yes.

Q. He has considerable land under cultivation there, and what do you consider that worth?

A. I do not know; he bought it five years ago for thirty-five dollars an acre.

Q. That was unimproved?

A. He had about forty acres in cultivation then on the place. He bought that forty five years ago for forty dollars an acre. That is all clear.

Q. Do you know how many acres he has?

A. No, sir, I do not.

Q. About two hundred acres?

A. I don't think so. He bought forty acres from the Brown people, and he bought the old original tract, I forget how come me to know what he gave for it,—it was offered at thirty-five dollars an acre, and I tried to get my neighbor, Mr. Prim, to buy it.

Q. He did not buy it, the whole piece at that?

A. He bought the original tract for thirty-five dollars an acre, and he bought forty acres from the Browns for forty dollars.

Q. His cultivated land is just as productive as your home place, is it not?

A. Just as productive as anybody's.

Q. For use by one who wants to use it, it can be made to yield just the same?

A. Oh, sure.

Q. Take the level land on your brother's forty, over there, if water were put on that it would be just as productive?

A. Yes, sir.

Q. Water is easily put on it, isn't it?

A. Sure.

Q. How about the Ray Hamilton ten acres?

A. That is just as good as anybody's.

Q. Except for the distance of the village it is just as valuable as your land?

A. It is not as far as I am from the village. He is right here in this forty here.

Q. That is the west half of the east half of the northwest of the southwest of 17, township 30, range 3?

A. Yes, sir. He bought that, I think, two years ago, for \$150.00 an acre.

Q. It is worth more now, isn't it?

A. I don't know. It is not selling.

Q. Is he offering it for sale?

A. He told me he would sell it for two hundred if he could get two hundred, but there is no land moving now. There is no land selling.

Q. You have twenty acres in the southwest of the southwest of 17, township 30, range 3, haven't you?

A. I did own that.

Q. Don't you now have the north half?

A. No, sir, that half is across the road where my brother's is, that is 18; I have got nothing in 18.

Q. Whose piece is this? Here is the town limit?

A. Yes, yes, sir, that is a fact; that is mine too. That is 20 acres down there.

Q. That is the north half of the southwest of the southwest of section 17, township 30, range 3?

A. Yes, sir; I own that.

Q. And that has some improvements on it?

A. Yes, sir.

Q. And how much are the improvements worth?

A. I don't know. I guess they would cost perhaps fifteen hundred or two thousand dollars to put them on there, the orchard and barn.

Q. Fifteen hundred to two thousand?

A. Say fifteen hundred.

Q. Is the land level?

A. Well, no, there is a little bluff around. After you get on the bluff it is level.

Q. It is all arable land?

A. That little piece in the bottom is sub-irrigated. It will have to be ditched off.

Q. Except for that, it is good land?

A. It is good land, all of it.

Q. Which was the Grant place that I was looking at the other day?

A. That is in section 18, fifteen acres.

Q. It is in the southeast of the southeast then?

A. Yes, sir.

Q. Is that J. M. Grant?

A. Yes, sir.

Q. That is highly cultivated piece, the Grant, land, isn't it?

A. Yes, sir, not any more than any of the rest of it on the prairie.

Q. What is that worth?

A. I do not know. He is asking five thousand for it, but he is not getting it. He has been asking that for two or three years.

Q. Will he sell it for less?

A. I do not know; he has not yet.

Q. How about the Joseph Kerner land; he is down here in 20, isn't he?

A. Yes, sir.

Q. And he has thirty acres?

A. Yes, sir.

Q. Is that all under cultivation?

A. Yes, sir, all of it.

Q. And is as productive land as your home place?

A. Yes, sir.

Q. His is the west half of the east half of the southeast of the northwest, and the west half of the southeast of the northwest of section 20, township 30, range 3, 30 acres?

A. Yes, sir.

Q. Is he farming that himself?

A. Yes, sir, I think he is.

Q. Do you know what revenue he gets from it?

A. I do not.

Q. Is it for sale?

A. Yes, sir, he would sell it. He would be glad to sell it. He is in debt so deep, he wants to get out.

Q. What is it worth?

A. I do not know. It is hard to tell what it is worth. There is nothing selling.

Q. It will produce as much per acre as your land?

A. Sure, yes, sir.

Q. Do you know Chris Miller's place?

A. Yes, sir.

Q. What is the cleared land there worth per acre?

A. It is worth just as much as any of it on the prairie.

Q. Can you locate that on the map?

A. It is not on this township. (Taking another map.) It is a half a mile from my corner. This road comes down here; here is Chris Miller's here, in that forty.

Q. In the southeast of the northeast.

A. Yes, sir, of 17. This road turns to Angeles, right on that line.

Q. You said his improvement is as good as any on the prairie?

A. Yes, sir.

Q. What has he improved?

A. About ten acres.

Q. What is his selling price; he wants to sell, doesn't he?

A. Yes, sir, he wants to sell. I know I sold some adjoining on the west, just as good as he has got for \$25.00 an acre, five years time and 6% interest.

Q. When was that?

A. I think about three years ago, or two and a half; two and a half years ago.

Q. All in the woods?

A. Yes, sir, my forty is in the woods?

Q. Without water?

A. Yes, I can put water on it, I have got the water to put on there, on everything I have if I want to put it on.

Q. That don't go in with the \$25.00 an acre?

A. No, sir. I sold forty acres, three years ago, or two and a half; I got pay for twenty acres of it. The other twenty I will have to take back, I think. I will put it on the market for \$20.00. It has got timber on it.

Q. That adjoins Miller on the North?

A. No, on the west; it is in the bottom, good sandy land down there.

Q. That would be the southwest of the northeast of section 13, township 30, range 4?

A. Yes, sir.

Q. Jeritts place, that is in section 18, township 30, range 3, isn't it?

A. Yes, sir.

Q. And it is the west half of the southwest of the southeast of the southwest, five acres, isn't it?

A. Yes, sir; five acres, section 18.

Q. Section 18, township 30, range 3?

A. Yes, sir

Q. Have you any opinion as to the value of that land without the improvements?

A. Like any of the rest of it around here, just the same land exactly. There is not a bit of difference in any of this land that is being irrigated around here.

Q. When did he buy that?

A. He bought that three years ago last fall.

Q. I was thinking there had been a transfer since then?

A. Three years ago last fall. I know he bought it a few days before I left for Honolulu.

Q. Where is that land of the McClay estate?

A. That is west of the Dungeness river.

Q. About directly west of Sequim?

A. Yes, sir.

Q. That is being marketed now, isn't it?

A. Yes, sir.

Q. What kind of land is it?

A. Well, some of it is good land; some of it is sorry land. Some of it is high mountain; I would not give 50c an acre for it. I would not have it; only got improvements, just to hold the holdings together, that is it; I will say furthermore, if a man goes over there and pays forty dollars an acre for that land he is a fool when he does it.

Q. They have been selling a good deal of land?

A. I question it. A man paying five per cent down and calling it a sale, but gentlemen, that is not a sale.

Q. That is in the flat?

A. Yes, sir, what they call cut-over land.

Q. It is logged off, and not otherwise?

A. Yes, sir.

Q. It is susceptible of being irrigated?

A. Yes, sir, that is, part of it.

Q. I mean, that that is in the flat?

A. Yes, sir, they can irrigate that.

Q. They have been making sales within the last two or three months, haven't they?

A. Yes, some of them are contracting to take it, that will never pay any more.

Q. What price have they been getting?

A. It is only hearsay from me. I do not know.

Q. You know what is reputed in the community as the price?

A. Yes, sir.

Q. What are they getting?

A. I think it is ranging from fifteen to forty dollars an acre.

Q. Haven't they sold some as high as fifty?

A. Not that I heard of, no. Not that I heard of.

Q. Do you know about what amount of land they have sold?

A. No, sir, I do not.

Q. There is considerable clearing going on, isn't there?

A. Slashing, not clearing. There is a good deal of difference between slashing and clearing.

Q. Isn't there some clearing going on?

A. No, I do not know of any. I do not know of a bit of clearing. It did not hear any dynamite. It takes dynamite to clear land in this country.

Q. Do you know the Angeles road there?

A. Yes.

Q. That is not cleared land?

A. There is a fellow clearing up a place to put the house out on the Earle's land.

Q. There near Dick's land, isn't there some?

A. That is not in the McClay land.

Q. That is north of the McCay land?

A. That is Lintripp.

Q. Yes, he has cleared some?

A. Yes, sir.

Q. Could you locate that on the map?

A. No, sir, I could not. I do not know the

sections over there, of any of it over there the other side of the river.

Q. Do you know how much Lintripp has?

A. No, I do not.

Q. It is near the Bill Dick's place south, isn't it?

A. Yes, sir, it joints McLaughlin, on the south. I would not be certain whether it is McLaughlin's, or Dick's. They are right there together, though.

Q. What is the value of that Lintripp?

A. That stump land?

Q. Yes, sir.

A. Now, my value of stump land is very small. I say that this stump land, the best land is, not worth over ten dollars an acre, and a man is a crazy jink to give it. You take that McClay land that is cut over where it is good, and you can't clear it and put it in first class shape for less than two hundred dollars an acre.

Q. You know Bill Dick's farm, you are familiar with that?

A. Yes, sir.

Q. That is a highly cultivated place?

A. That is a good place.

Q. And very productive, isn't it?

A. Yes, it is a fine place.

Q. He is an energetic successful farmer?

A. Sure he is, as much so as any man we have in the country.

Q. Do you know what he is making his land produce?

A. No, sir, I do not.

Q. Have you any idea as to the value of it per acre, I mean of the cultivated land?

A. I know he could not sell it for less than two hundred dollars, because it cost him that to get it out of the woods, cleared up.

Q. He would not sell it for two hundred, would he?

A. I do not know whether he would or not.

Q. Do you think it is worth that?

A. Well, if a man wants it for a home in this

climate, it is all right, but there are places that I can put that two hundred an acre in other places and make four times as much money. If he is hunting for an investment, not land.

Q. Not land?

A. Yes, sir; I can carry you where you can buy land for thirty-five dollars an acre which will make a good deal more money to the acre than it will up here, I mean for rents.

Q. Not here?

A. No, not here. I do not mean here. But I am speaking, if a man has got a bunch of money and wants to invest in land for revenue he would be foolish to put it in here.

Q. Suppose he wants to use it like Bill Dick does?

A. If he wants to live here and puts his money down where he can sit down and look after it, all right. But his revenue would not be anything like it would if he would go into San Francis, Arkansas, or the White River, or the Red River, where he can get it for \$25.00 an acre there, and make \$12.00 or \$15.00 an acre rent.

Q. How does Bill Dick's land compare in productivity with this land on the Sequim prairie?

A. Well, I do not know. I think Bill can make as good crop as we can when he has rain, or if he would put water on it, I think he could.

Q. If he gets as good crops off of that land as you do down here on the prairie, the land ought to be worth as much per acre, oughten it?

A. Yes, but this land on the prairie is not worth over two hundred dollars an acre. They are asking more for it. I suppose Dick could ask more than that for his.

Q. But you do not think it is worth it?

A. No, sir, the prices they have got on it, it is not worth that much money.

Q. People coming here ought to come here on account of this climate?

A. I never did figure on making interest on my money, or on my investment.

Q. Going back to Dungeness, how about the McGinnes land, what kind of land is his?

A. He has fine land.

Q. Is it as productive as this at Sequim?

A. I think so; if I was going to; if I was going to farm it I would rather have it. I would not have these devilish rocks to contend with.

Q. It is worth as much per acre as this at Sequim?

A. For a farming proposition it is; I would rather have it.

Q. Do you know the Thornton place?

A. I do not know it.

Q. South of old town? West of old town?

A. Who owns it?

Q. Mrs. Thornton, of Port Townsend?

A. That is where you go through that sandy lane?

Q. Yes, sir; how does that land compare in value with the Sequim land?

A. I do not think it is anything like as good as the Dungeness or the Sequim land.

Q. Because it is higher and drier, and sandier?

A. Higher and drier and sandier, that is my idea about it.

Q. How do you think it would compare in value, half as valuable?

A. I do not know. I never have noticed a crop on the place. I paid no attention to it. I only went through there four or five different times; but that part of the country does not appeal to me at all; not that I am knocking anybody's corner in this country. If I say anything that is not good, they say I am knocking the neighborhood. I would rather not say anything about it.

Q. I am talking about the productivity of the land, in that respect, would you say that it is half as valuable as this at Sequim, or at Dungeness?

A. I do not think it is, sir.

Q. It would not have half the value?

A. No, I would not give one acre here at

Sequim, if they would give me two there. Other people might be glad to do it; I do not know.

Q. Do you know the Lotzgesell place?

A. Yes, sir.

Q. How is the land in there?

A. The level land is good, first class land.

Q. Is it as good as this land at Sequim?

A. I would rather have it to farm on it, because it is more pleasure in plowing.

Q. You think, if anything, it is more valuable than at Sequim?

A. For a farming proposition I would rather own it.

Q. Would that apply to George Lotzgesell?

A. Yes, sir, they have good land.

Q. And Frank Lotzgesell, too?

A. Yes, and Horns, and all that in that bottom over there, Dicksons, and all that in that bottom over there. That is a might fine valley right in there.

Q. Have you any opinion as to what it is worth per acre?

A. It is worth two hundred dollars, or over, because it would cost them that to clear it in that bottom.

Q. How much more than that?

A. From what I saw of the stumps that is not cleared there I think it would cost about \$250.00 an acre to clear it?

Q. They are still clearing up land around, though?

A. Yes, sir. They are getting in a little.

Q. (Mr. Earle) In your opinion is it worth two hundred and fifty dollars an acre?

A. It would cost that to get it up, what I judge from that ten acres across the road from my house, that was much easier to clear than that bottom, and it cost me one hundred and fifty dollars an acre to put it in the shape I have got it in.

Q. (Mr. Edwards.) If the land when they get it cleared isn't worth what it cost them to clear it they would not be apt to go on clearing, would they?

A. I don't know; some of them clear land in

this country where I would not give them ten dollars an acre, where it costs to clear it one hundred dollars an acre.

Q. It is pretty good land?

A. Yes, sir, if you want it for a home it is all right. If he wants it for an investment, it is all wrong. If I had a million dollars and wanted to invest it, if I wanted it in land I would not put a bit of it in this stump land. I would not touch it. I would go where land is a good deal cheaper, and my revenue would be much bigger. It is all right for a man to come here with a family and wanting to clear a home up and get a good home to live on, and use the land himself and do the work himself; but there is no money in a man buying this land to rent it out.

Q. As a speculation?

A. As a speculation; that is, for an income. If I wanted to put my money in a large body of land and rent it out for an income to live on, I would never put it here.

Q. Those men, Mr. McInnes, Mr. Lotzgesell, Frank and George, they are making good money on their land, aren't they?

A. Sure, they are making good money, but they have got their sleeves rolled up and into it. Whenever they attempt to rent it and pay their taxes and repairs they won't make no interest much on their money, that is a fact.

Q. Will they make as much interest as you get on your home place?

A. I hope they will make more, because my place don't make 5%, by the time I pay my water rent and taxes, it don't make 4%.

Q. Don't you think they are making more per acre every year than you get for rent for yours?

A. They are running their places themselves. I do not know what they are making. I suppose if I should take my place and go in and work, and work it myself and do more and look after things, I would make a good deal more money. I would consider my time worth that.

Q. Don't you know, Don McInnes is not doing work there?

A. He is one of the hardest working men in this country. You can go down there now, and he is in gum boots and overalls and working harder than any man he has got on his place. I never was there in my life, and I have been there a good many times, but that Donald is always working. I have never been there when Donald is home but what he is working there. At haying time he works like a Turk, and when he would come over from Seattle he would do the work.

Thereupon the hearing was adjourned until 1:30 o'clock in the afternoon.

1:30 o'clock, hearing resumed.

Q. Mr. Adams, you have been aware, of course, that the plaintiffs in these suits are owners of timber in the west half of the county?

A. Sure, yes, sir.

Q. There was a tax payers committee, wasn't there?

A. A tax payers league.

Q. A tax payers league in this county?

A. Yes, sir.

Q. Was it just in the east end here?

A. From Port Angeles east, and the west end was never organized because there was nobody down there much and it was troublesome to get in there; they had no roads.

Q. What persons did that organization include?

A. Everybody that wanted to join it, merchants.

Q. You were active in that?

A. Yes, sir, I was.

Q. The work of the league was done principally through a committee of some kind?

A. No, sir, I do not know as it was. We generally have meetings and talk over things. We never had but two or three meetings.

Q. You were quite active in the work?

A. Sure, yes, sir. I was president of it.

Q. Who were the others, who were most active?

A. Well, a good many took an interest in it.

Most all the people around here would take more or less interest.

Q. There were just a few weren't there, that were especially influential and active?

A. Oh, no, most all of them.

Q. Could you name any of them?

A. Of whom, of the people?

Q. Of the most influential and the active?

A. Mr. Dick was one, Donald McInnes, and William Mates.

Q. What was the main purpose of that league?

A. It was to see that the taxes were regulated like it ought to be in the county, and tax the people as it ought to.

Q. What do you mean by that? Had the taxes not been very well equalized?

A. There was not enough taxes. There was not enough income in the County when that thing was gotten up. The taxes in the east end did not amount to anything hardly. The taxes on my home when the thing was started was only twenty-eight dollars and today it is over one hundred.

Q. Wasn't one of the main purposes of that league to put up the assessed valuations on timber land in the west end of the County?

A. Timber, farm lands, and anything; not any more for the timber land, than it was for the east end. The timber lands valuations did not amount to anything. They were not paying any taxes. That timber down there was assessed as low as 15c a thousand.

Q. Was it through the efforts of this league that the valuations were put up?

A. Now, I could not say as it was, because this man was assessor, and when we first organized and got after him he was pretty bull-headed. He did not have much to do with it.

Q. You refer to Mr. Hallahan?

A. Yes, sir, I refer to Mr. Hallahan. He did not seem to take in with us very much.

Q. You did make an effort to get the valuations on timber put up?

A. Of course, all the lands, all of it.

Q. And the valuations on timber were put up?

A. Sure they were. We felt like the timber man was not paying his part of the taxes.

Q. Were the valuations on Port Angeles property increased through your efforts?

A. I don't know whether it was through our efforts, or not, but it has all been increased.

Q. Do you think the assessment rolls will show that?

A. Yes, sir, I think it will. I think it will show it increased all over the county.

Q. Didn't your league succeed in having the valuations of the farm lands put up?

A. I do not know whether it was the league or what it was; everything went up; farm land, timber land and everything else. The revenue of the County when I came in there was not sufficient to keep up these crooked roads, and the holes filled up.

Q. What was this Sequim land assessed at per acre in this community, irrigated land, such as that at your home, what was that assessed at per acre before your league became active?

A. The valuation?

Q. Yes, sir.

A. I don't know. All I know was that my first payment of taxes, I paid my taxes, and it was some twenty-eight dollars and few cents.

Q. That was six years ago?

A. Yes, sir.

Q. Before your property was improved?

A. I had it improved, but we were a year behind in paying the taxes.

Q. That assessment had been made while your place was unimproved?

A. Yes, I think it was. The price it is assessed at did not come up until about the time Mr. Hallahan came into office, until about the time the tax payers league was formed?

Q. That was after this community began to be productive, wasn't it?

A. Yes, I guess so, after they began to work the farms to make something.

Q. You don't know whether it was the activity of your league that increased the assessed valuations at Sequim or not?

A. No, sir, I do not know that we had taxing powers in the league. As I stated we felt like the people were not paying much taxes, and especially the timber men were not paying much taxes.

Q. Efforts were directed against the timber men, weren't they?

A. No, sir, I do not suppose they were. I never felt that way about it.

Q. By what means did the league succeed in having the valuations increased?

A. I do not know. As I told you Mr. Hallahan is the man that put the valuations on it. He did not do it through the league's efforts, or none of the league's committees waited on him, or anything of that kind; but we all talked about the assessments down there on that timber. The timber being assessed, the highest valuations then was about 40c on the timber, and some of it as low as 15c.

Q. Members of the league did urge on the taxing officers an increase?

A. Sure we did urge an tax increase, because we felt like the timber could stand it. The timber was taxed much smaller than anything and the price of timber was a good deal more than that. I had a friend of mine from Arkansas up here and I told him—

MR. RIDDELL: That is objected to.

MR. EDWARDS: Don't put in any matter that is not responsive to the question.

Q. (Mr. Earle.) Let me ask you whether the tax payers association or league, and especially whether you men in the eastern end of the county ever made any definite effort or special request to have the assessment value of your east and farm lands raised?

A. I do not know.

Q. Don't you know that so far as your efforts are concerned, or the efforts of those other men in

the east end, that they were directed, not to the raising of agricultural lands, but the raising of timber lands?

A. No, sir, I do not know anything about that. I have never kicked on my assessment at all.

Q. Do you remember of any effort ever being made by your tax payers associations to raise the assessed valuation of your Sequim land here?

A. No.

Q. (Mr. Edwards.) Or the Dungeness lands?

A. No.

CROSS EXAMINATION

BY MR. RIDDELL:

Q. When was your tax payers league organized, if you remember?

A. I do not remember.

Q. How long was it in existence?

A. They were in existence a year, I guess after we called a meeting; we haven't called a meeting in a good long time, but I do not know—two or three years, wasn't it, John? (Addressing Mr. Hallahan.)

Q. Tell what you did, what did the tax payers league do?

A. We would have a meeting and join the league and we would talk about raising revenue to make more roads, and betterments in the County and such as that, and put more taxes on the timber in the west end of the County. It was paying no taxes, a lot of it, and this county would tax them and they would come up to the Auditor's office and say: "Here we are not going to pay this, we will pay so many dollars; if you don't take that, you will get a lawsuit," and they would accept anything they had and we did not want any more of that.

Q. Did your committee at any time, or did the league at any time send a committee to see Mr. Hallahan to ask that any part of the taxes be raised?

A. If we did, I do not remember it.

Q. As a matter of fact you did not?

A. I do not remember if we did; I do not remember.

Q. Was there any attempt made on the part

of this tax payers league, or the citizen's league to have anybody's taxes increased above what they ought to be?

A. No, sir.

Q. Was there any desire or any intention on the part of anybody that you know of to put a larger burden of taxation on anybody, or on any class of property in the County than they ought to bear?

A. No, sir.

Q. If there had been any such intention you would have known about it?

A. Sure I would.

Q. Did you ever have any intention or any desire that an unjust share of the burdens of taxation should be placed on any person or on any property in the county?

A. No, sir, I did not.

MR. EDWARDS: I object to that and move to strike out the answer because the intention or the desire would not be material.

Q. Did you or anybody else so far as you know of, in the taxpayers league, enter into any agreement or any combination or conspiracy or ever talk over the assessment with a view to having anybody's assessment made burdensome, more than it ought to be?

A. No, sir.

Q. Was there any desire on the part of anybody that you knew, or know of now, either connected with the taxpayers league, or out of it in this County to cause the timber owners in the west end of the County to pay a larger proportion of the taxes than they ought to pay?

A. No, sir.

Q. So far as you are aware have the timber owners in this County ever been required, or ever been assessed in a higher proportion than they ought to be?

A. No, I do not think they are, in proportion I do not think they are assessed as high as the cleared land here in the west.

Q. You do not?

A. No.

Q. Have you ever had any experience as a timber man?

A. Yes, sir; I have had eighteen years.

Q. You have lived in this vicinity how long?

A. Seven years this August.

Q. You have lived in Sequim in this County seven years this August?

A. Yes, sir. Q. You came here for the purpose of investing some money, whatever money you had?

A. No, sir, I came here to make a home first, and fish and hunt, and lend the balance of my money out, and so after I came here I thought the thing over, and thought I had better put some of it in land and loan a little out, so if I made a lot on what I had loaned out I had something I could sell and get something out of.

Q. Are you in politics in the County?

A. I am sorry to say that I was a little last year. I hope to never be again.

Q. I take it that the people in this County did not appreciate the efforts you had taken in the Citizen League to job the timber owners, and consequently they did not elect you?

A. I do not know what was the matter; but I know I served the County two years in helping to get these roads together.

Q. You have helped on things of that kind?

A. I sold bonds and looked after the roads; I do not think that is appreciated. I know I saved the County \$15400.00 on the first contract that was let out.

Q. When you bought and improved your place, Mr. Adams, did you do so with the idea of making it an investment?

A. For revenue?

Q. Yes, sir.

A. No, sir.

Q. If you had been trying to improve the place for investment purposes, would you have spent your money in your home place in the way that you have?

A. No.

Q. As I understand, Mr. Adams, you bought that place, and you improved it for a home irrespective of what the value might be at that time?

A. Irrespective of what the value or the cost might be.

Q. You did not need a revenue from the place?

A. No; I hope I never will need it.

Q. You had other means of revenue?

A. Yes.

Q. When you had a whim in the improving of that place you gratified that whim, no matter whether it would be productive or not?

A. Yes, sir, sure.

Q. As a matter of fact the amount of money that you have put in the place does not bear any relation to the actual cash value of it?

A. No, sir; it is like my two automobiles. I have got two automobiles that cost me two thousand dollars, which I would be glad if some man would give five hundred for them, right now, cash.

Q. Did you, or any committee of the tax payers league ever go before the board of the County Commissioners, and acting in conjunction with Mr. Earle, here, the attorney for the timber men in the west end, in conjunction, both of you acting together?

A. I think Mr. Earle was there at the time.

Q. Who was the committee?

A. As well as I remember it was Jim Dick, Don McInnes and myself.

Q. You were a committee from the tax payers league?

A. I do not remember whether I was or not. I know we were there.

Q. State what was done?

A. Well, we were there before the board of County Commissioners to get them to reduce, not the value, but the levy, to make it less on the taxes, to make the taxes less in the County. That is what we were there for, to get these taxes reduced, and the Olympic Leader comes out and says that Don

McInnes kicked so hard that they had to lower the taxes in the east end, but the tax payers in other districts, and Port Angeles and other places would not allow them to lower it in that part, that they wanted John Hanson to carry out his ideas. I can show you that in the Olympic Leader. I have got it in my house yet.

Q. Did you go down there for the purpose of having the levy lowered in the east end and not of the timber men, or all the same?

A. No, sir; all over the County.

Q. When was that?

MR. EARLE: It was in August.

WITNESS: Whenever it was.

MR. RIDDELL: Before the County Board of Equalization in August?

A. Yes, sir, I guess that is the way it was.

Q. You were speaking about the valuations of property here as being affected by cost of clearing; is it not a fact that the land is being cleared, and has been cleared on contract in the Sequim prairie for \$100.00 an acre?

A. I do not know of any.

Q. Might you not be mistaken about that?

A. Mine cost me more than that.

Q. You don't know of any being cleared here for \$100.00 an acre?

A. No.

Q. If you should turn out to be mistaken on the cost of clearing would that affect your valuation of property, property values?

A. Mine?

Q. Yes, sir.

A. No, I do not know as it would; but you can't get this land cleared at that.

Q. I want to know, assuming if you can, if it were possible that you might be mistaken about it?

A. Well, if I am mistaken—

Q. Would that affect your testimony as to the value of land?

A. I would not think so.

Q. You have put the value as to what you think is the value?

A. I have put the value on the land what it is worth before it is cleared and after it is cleared.

Q. Is the value you put on the land after it is cleared with reference to the cost of clearing?

A. Yes, sir, the clearing and the land too.

Q. If the cost of clearing the land was less then would you put a less value on the land?

A. No; I would put a higher price on the raw land for this fact, if this heavy stump land is ten dollars an acre and costs \$200.00 an acre to clear, then the next forty next to it would cost one hundred and fifty dollars an acre, that that has not got so much stumps on ought to be worth more than the other; that is the way I should figure it.

Q. You don't know of any land being cleared in here for \$100.00 an acre?

A. No, sir, I do not.

Q. You spoke, Mr. Adams, about the land in here being desirable for homes; would you say that when a man buys a piece of property in here he buys the climate too as a part of the value of it?

A. I figure one-third for school, one-third for climate, and the other third for the land. I made that remark out there since I had been here. If I was going to buy a good big sized farm I would not give fifty dollars an acre around here, full of rocks. You get to plowing it awhile and see what you have. I would rather plow ten acres in this down here than to plow this at all.

As I understand it the land on the prairie is irrigated here?

A. Yes, sir.

Q. It costs something to irrigate the land?

A. Sure it does. We pay an assessment every year for water, for keeping up the ditches. We paid 3% is the last we have been taxed.

Q. And it run from that to what?

A. From that to ten per cent.

Q. From three to ten per cent?

A. Yes; and I would not be certain—I think the Eureka ditch, the highest of that was twenty per cent.

Q. Twenty per cent on the value of the stock?

A. Twenty per cent on the dollar; if you had one hundred shares your assessment would be one hundred dollars.

Q. A dollar a share?

A. Yes, sir.

Q. If you buy a share?

A. If you buy land, a half, or two-thirds of them won't give you the water. The water don't go with the land unless you make a deal with the party you buy it from, and if you don't say anything about the water you buy the land.

Q. Could you tell us about what it costs per acre to keep up the water charges?

A. No, sir, could not do it, because this year the highest assessment in Sequim ditch is three per cent, and in the Independent ditch it is five per cent, and next year the Independent might be five per cent, and the Sequim ditch ten per cent; so you don't know where you are at. It is a good deal of trouble to put the water on the land. You have to stay out there with it.

Q. It requires some additional labor to attend to the irrigation, to irrigate it?

A. I should say so. It costs two dollars and a half a day to get anything like a good man to do it.

Q. How much water stock do you have to have per acre to farm?

A. A man on forty acres ought not to have any less than six hundred shares.

Q. Unless you have two or three hundred shares it will be taking of others to irrigate it?

A. Then he won't get a good job then.

Q. Do you know whether or not there was an organization of the tax payers league in Port Angeles? Was there an actual organization of it there?

A. I don't remember whether there was or not; but we went down for it, and I think we called for

members there in the theatre that night; I don't remember.

Q. Isn't it a fact that some of the residents of Port Angeles joined it, but there was never an organization in Port Angeles?

A. No, sir. This was the head organization up here at Sequim, and down here at Henry Chambers, those people joined it in there at Dungeness, but Sequim was the head office of all of it.

Q. How many members did you have at the time it had its largest membership; do you know?

A. I don't remember. I don't know as I ever heard.

Q. What methods did you try to use?

A. Well, I don't know of particularly any.

Q. Well, in effecting the proper taxation of property in the county, what did you do?

A. The only thing is we would put the public sentiment on it so that they would have to raise it. They would have to get more taxes; that is the way I looked at it. You get the public sentiment on a thing and it will carry it quicker than anything. The question was looked up here and found that the timber men, that they were paying no taxes. People had nothing to do; they could not get anything to do. I was in a case of that kind myself, and we had to spring the taxes on the land and get it up and the whole south got busy. Whenever you get these timber men down here busy you will have this County for a County, they will do something; but as long as you have this County locked up they will keep it locked up.

RE-DIRECT EXAMINATION

BY MR. EDWARDS:

Q. What do you mean, by "locked up"?

A. Hold their timber without cutting it. They will hold that timber for the next forty years, if they don't pay taxes on it.

Q. Returning to the water rights; when you put the value on land that does not include what one would pay for water rights?

A. Sure it does, with me; without the water the land is worth nothing. Without the water, absolutely, this prairie is not worth a dollar an acre. If you move the Dungeness River away from here so you could not get a drop of water to use on this prairie it would not be worth a dollar an acre.

Q. If I buy a piece of land here and don't also bargain for the water, I don't get the water?

A. If you don't call for water you can't get it.

Q. There are some who get along with ten shares per acre, aren't there?

A. Well, that is some people—well, yes, sir, some will do it.

Q. Get along fairly well that way?

A. No; they swop around and steal it together. There is a lot of that stealing of water.

Q. When you spoke of the three per cent assessment you meant three per cent on the value of the shares?

A. Yes, sir, to the dollar. In the Sequim ditch and the Independent ditch it is a dollar a share; you can't buy it cheaper. And in the Eureka ditch it is a dollar and a half.

MR. EDWARDS: There is a little more direct examination I would like to ask.

Q. (Mr. Edwards.) Do you know the Chambers place, the Willis Chambers place?

A. Yes, sir.

Q. The other side of Severs place, isn't it?

A. Yes, sir; I know where it is?

Q. How does that land compare with the value of the land we have mentioned about Dungeness and Sequim?

A. I do not think it is as good land. We have a whole lot of stuff there that is no account.

Q. I mean his arable land, that he has under cultivation; under the plow; is it worth less or more?

A. Well, if I was going to buy it I would not give as much for it.

Q. How much less?

A. I don't know. I have never been in his

fields to look at it. I only passed through there. I judge from the crops there growing, from the road,—he has a pot of peat land over there that is no account at all. It won't grow grass; it won't grow anything. (Witness excused.)

William W. Garlick produced and sworn as a witness of plaintiff testified:

Q. (Mr. Edwards.) Do you know the value of lands in this community?

MR. RIDDELL: I make the same objection.

A. Do I know the value of land in this community?

Q. Yes, sir.

A. That is a pretty hard question to answer, because people put a different estimation on lands. But according to my views I know a little something of it. I do not know as I could give you an accurate value of lands. I do not think I could, because the land is of such variety, that a person would have to be pretty well posted to give the value of it.

Q. Well, if a particular piece of land was called to your attention that you are acquainted with would you know approximately the value of it?

A. Approximately, I might give my idea of the value of it, see; but I don't know whether it would be authority.

Q. (Mr. Edwards.) Take the land nearer to town, that is thoroughly cleared and is under irrigation, what would you say would be the value of it, good tillable land on the prairie and nearer into town?

A. This land on the flat originally called the Sequim prairie it varies in character also. It is a hard matter to decide. Take down on the lower part here it is more valuable than it is higher up, because it is not so stony down that way, and it is more productive anyway.

Q. Down in 16 and 21 some of it is not quite so good as that in 17 and 18?

A. I would not take it to be quite so good, some

of it. It is very spotty; some places it is poor. The most of that in there is more uniform. The north is pretty good land.

Q. How about this land in section—in the west half of section 19, west of town?

A. It is not quite so good. It is more stony than the other, and it is not such dark land. The darker the land is here generally the better it is. This red land is not as productive, I do not think.

Q. Just west of town, isn't that pretty black land?

A. It is stony, some of it.

Q. Some of it that is as near town is black?

A. Some of it is not as good. The majority of it is about as good as the other.

Q. Nelson's is better land than Heller's?

A. I think it is a little, yes. It is a hard matter to give an estimation of the value land where there is such a variety of land as there is in this country.

MR. DICK: There is hardly two acres alike.

A. Yes, sir, there ain't hardly two acres alike. My opinion about the difference in land would be different from someone elses. You can't make a thorough estimation of land in the community at all and be right anyway.

MR. RIDDELL: It is all the truth?

CROSS EXAMINATION

BY MR. RIDDELL:

Q. You have been living at Sequim for 24 years?

A. Not at Sequim, but in the vicinity.

Q. You said that about a year and a half of that time you have been away?

A. Yes, sir.

Q. You were still in the County, were you?

A. Not, in the County, no.

Q. How long ago was that?

A. I was away in a part of 1890, and 1900.

Q. And since that time you have lived here continuously in the County?

A. Yes, sir.

Q. Were you a member of the Citizens' League or Tax Payers league?

A. I have heard of it.

Q. Were you a member of it?

A. No, sir.

Q. You know Mr. John Hallahan, who was assessor in 1910?

A. Yes, sir, I know him.

Q. And John Hanson, who was a member of the board of County Commissioners at that time?

A. Yes, sir.

Q. Do you know Mr. Babcock who has been County Treasurer?

A. Yes, sir.

Q. Do you know Frank Lotzgesell, who was a member of the board of County Commissioners?

A. Yes, sir.

Q. And Mr. Erickson, who was also a member of the board of County Commissioners at that time?

A. I know him, but not a great deal of him. He was from the west end of the County.

Q. The four men whose names are mentioned as being County officers at that time are men who lived in this vicinity for a number of years?

A. Yes, sir.

Q. They are representative citizens and thoroughly well known?

A. I believe so.

Q. Do you know whether or not in 1890 or 1910, or at any time subsequently there has been any conspiracy on the part of the assessing or taxing officers of Clallam County to tax the timber owners or anybody else in this County so that they should bear a greater proportion of the taxes than other people?

A. No, sir, I don't know of that.

Q. You never heard of it?

A. No, sir.

Q. Do you think if there had been a conspiracy of that kind you would have learned of it?

A. I think so.

Q. Was there ever any conspiracy on the part of the people of the County generally to impose a greater burden of taxation on the timber owners, or anybody else in this County than they ought to bear.

A. I don't think there has been any conspiracy in that line, no.

Q. Do you know the present members of the board of County Commissioners?

A. Yes, sir.

Q. Do you know the County Treasurer?

A. Yes, sir.

Q. You knew them as they were constituted last August?

A. Yes, sir.

Q. Do you know of any conspiracy that there was on the part of those gentlemen to try to cheat the timber owners in this County by compelling them to pay a greater proportion of the taxes than they ought to bear?

A. I do not think there was any conspiracy at all; but my view of the matter of taxation of timber is a little variation. I do not think there was any conspiracy, but a difference in opinion in regard to the assessment of timber.

Q. What I want to know is this, Mr. Garlick, whether this difference of opinion that you have is an honest one?

A. Yes, sir, it is honest.

Q. State whether or not you believe that the opinions of the gentlemen were as honest as yours is?

A. I believe they were, certainly.

Q. Did you ever know of anything, or ever hear of anything to indicate that they were doing other than honestly attempting to fix the values of the property in the County?

A. No, sir.

RE-DIRECT EXAMINATION

BY MR. FARLE:

MR. EARLE: Mr. Edwards is not here. There are one or two questions I want to ask.

Q. Do you know whether there has been any

organized effort on the part of the tax payers association, or of the east end people generally to raise, or to influence the County officials to raise the assessments on timber?

A. I have not been a member of the taxpayers league, and I do not know that I can say, that I can answer that question, because I do not know of anything.

Q. Outside of the taxpayers league, do you know whether there has been an effort to influence the County officials to raise the assessment on timber?

A. Well, I think there has been an influence, but I do not believe there is anything dishonest about it. Naturally, people would advocate the raising of values on timber. Certainly you will always find that anywhere you go. It is a difference of opinion. Some think they should and others think differently.

Q. Has there been such an influence as that to advocate the raising of timber assessments here and in the east end of the County?

A. I could not say whether it had influence or not. People advocated raising the values on timber.

Q. There has been an effort?

A. I presume there has been an effort. I do not know whether it has been the officials, but people generally, a great many people advocated the raising of values on timber; whether it had any effect or not, I could not say.

Q. But you do know personally that there has been an effort?

A. I have talked with a great many people who have been in favor of raising the assessed valuation of timber through the County. They were very enthusiastic in regard to that; and others differed. Whether it has had any influence or not I could not state. They were not officials; just civilians.

RE-CROSS EXAMINATION

BY MR. RIDDELL:

Q. Mr. Garlick, as I understand it from your testimony, I want to get it right, is that there have been some people in the County who have felt that

the values on timber land should be raised, and there have been some people in the County who have felt that it ought not be?

A. Yes, sir.

Q. And the people who felt that it ought to be raised have said so, and the people who felt it ought not to be raised, have said so?

A. Yes, sir.

Q. And both people have been absolutely honestly in their convictions?

A. Yes, sir, I believe so.

(Witness excused.)

Charles F. Seal produced and sworn as a witness on behalf of plaintiff testified:

Q. Well, from your residence, and what you have known of the lands and what the lands produce, what the lands sell for, do you know, as you say, in a general way, what agricultural lands are worth on the Dungeness bottoms and around the Sequim prairie?

A. No; my testimony would not be of much consequence as to my ideas of value, because there is such a diversity of lands. It is in pockets and flats.

R. W. SCHUMACHER, produced as a witness on behalf of plaintiffs, having been first duly sworn to testify to the truth, the whole truth, and nothing but the truth, testified, as follows:

DIRECT EXAMINATION BY MR. EARLE

Q. What is your business?

A. Cashier of the State Bank of Sequim.

Q. How long have you lived in Sequim?

A. Five years.

Q. Have you been connected with the bank since the bank was organized?

A. Yes, sir.

Q. In the same position?

A. Yes, sir, in the same position.

Q. It is the duty of the bank, is it, to make annual statements of the financial condition of the bank?

A. Of course, we make daily statements for that matter. We make a statement every evening.

Q. Do you make a statement which you publish?

A. I publish a statement about five times a year as is called for by the examiner.

Q. And as cashier do you keep those statements?

A. Yes, sir.

Q. Have you them with you?

A. I have them with me.

Q. Will you read to the reporter the annual statement for each of the years, 1910, 1911, 1912, 1913, 1914, these statements issued by you, or advertised or published by you in the month of December in each of those years.

MR. RIDDELL: I object to that. In the first place that the statement itself is hearsay, and in the second place if the statements were not hearsay it would be the best evidence and not the witness's testimony as to what it contains.

Q. (Mr. Earle.) Have you the book there in which those statements are kept?

A. Yes, sir, I have every statement of every night that we have run since we started.

Q. Have you the original statements as I call for them for the month of December for each year?

A. If you want the statements as called for by the examiner; I haven't got it here, but I keep all of them at the bank. I can get everything called for, that has been called by the examiner. I haven't them with me. I have them here, but I would not know which ones to pick out.

MR. EARLE: It is our wish that you read into this deposition from the original statement, your statement for each of these periods; if you have them over to the bank we will have to ask you to bring them over and read from those.

A. All right, I won't need these at all.

Q. What are those statements? (Witness producing statements.)

A. This is a daily statement that I keep, copied off of the bank's records.

Q. And the only difference in these statements and the statements you have at the bank is that the others are the originals, or are these the originals?

A. Understand me, this is a statement of each year's business, but the State Bank examiner calls for any special date that he wishes, and then we have to swear to that statement and publish it, so the statements that the Bank examiner calls for sworn statements.

Q. And copied from this?

A. Copied from that.

Q. Then your book is a book of original entry from which these papers are copied?

A. Exactly.

Q. Very well, let's take it from the book.

A. I could not tell you the exact date they are called. They are called for special dates, and I could not tell you on this book. This is a copy of every night, whereas they are called about five times a year.

Q. I think we better have the ones you make to the bank examiner. (Witness retiring to get statements.)

(Witness producing statements.)

Q. Mr. Schumacher, what time of the year was that bank organized?

A. We were organized in March of 1910, we opened our doors the 5th of May, 1910.

Q. Then you might first read your financial statement in December of 1910.

A. Possibly there wasn't any call in that month.

Q. Take it from your book of original entry.

A. November 10 is the only call we had in that year.

Q. Take it from your book of original entry your financial statement for the last day of that year?

A. Yes, sir, I have that here, December 31st, 1910.

RESOURCES

Loans	\$18018.79
Over drafts	69.88
Warrant	7803.52

Premiums paid	15.61
Commercial State Bank	3249.11
Corn Exchange National Bank.....	1418.97
Cash	4637.99
Building, including real estate.....	2100.96
Furniture and Fixtures.....	1730.80
Expenses	1174.91
Interest paid	1622.70

\$40236.76

LIABILITIES

Undivided Profits	\$ 1266.69
Capital Stock	10000.00
Individual Deposits	21719.65
Demand Certificates	6122.60
Time Certificates	1127.82

\$40236.76

Q. Now, your statement as shown in your book of original entry for the 1st of March, 1911?

A. March 1st, 1911:

RESOURCES

Loans	\$18858.69
Over drafts	8.89
Warrants	10192.15
Premiums paid	15.61
Commercial State Bank.....	16920.36
Corn Exchange National Bank.....	1791.71
Cash	2966.19
Building, Furniture and Fixtures.....	3830.00
Expenses	334.06
Interest paid	33.98

\$54951.64

LIABILITIES

Capital Stock	\$10000.00
Undivided Profits	357.38
Individual deposits	38843.39
Time Certificates	5333.02
Demand Certificates	417.85

\$54951.64

Clallam Lumber Company
C. H. Ruddock and T. H. McCarthy

Q. Now give the statement for the last of the year of 1911?

A. December 30, 1911:

RESOURCES

Loans	\$28845.38
Warrants	1075.96
Banking House, Including Furniture and Fixtures	3980.00
Overdraft	11.85
Cash on hand.....	4186.61
National City Bank.....	3288.36
Corn Exchange National Bank.....	1623.09
Seaboard National Bank.....	3895.41
	<hr/>
	\$56626.66

Expenses and interest were charged off on that date. There was none.

LIABILITIES

Capital Stock	\$10000.00
Undivided Profits	962.58
Individual Deposits	40066.49
Demand Certificates	1656.61
Time Certificates	3340.98
Certified Checks	600.00
	<hr/>
	\$56626.66

Q. Coming now on the year 1912, the statement on the first of March, 1912?

A. March 1, 1912:

RESOURCES

Loans	\$27313.00
Warrants	12020.68
Banking House, Furniture and Fixtures.....	3980.00
Overdrafts	61.92
Cash on hand.....	2619.72
National City Bank.....	1561.05
Corn Exchange National Bank.....	227.69
Seaboard National Bank.....	131.50
Expenses	467.56
Interest paid	46.27
	<hr/>
	\$48429.39

LIABILITIES

Capital Stock	\$10000.00
Surplus	850.00
Undivided Profits	456.86
Deposits	31630.65
Demand Certificates	1626.29
Time Certificates	3865.09
	<hr/>
	\$48429.39

Q. Now, at the close of 1912, what have you?

A. December 31, 1912:

RESOURCES

Loans	\$30140.00
Warrants	7172.85
Bonds	1570.25
Banking House, Furniture and Fixtures.....	4082.47
Overdraft	8.88
Real Estate Loans.....	5385.50
Cash	4776.30
National City Bank.....	16160.70
Corn Exchange National Bank.....	1361.75
	<hr/>
	\$70658.70

LIABILITIES

Capital Stock	\$10000.00
Surplus	1000.00
Undivided profits	1118.12
Deposits	51041.15
Demand Certificates	2531.16
Time Certificates	4933.59
Certified Checks	34.68
	<hr/>
	\$70658.70

Q. Now, give us March 1, 1913.

A. RESOURCES

Loans	\$36234.67
Warrants	7561.99
Bonds	1570.25
Banking House, Furniture and Fixtures.....	4050.00
Overdrafts	49.69
Real estate loans.....	4095.50

Clallam Lumber Company
C. H. Ruddock and T. H. McCarthy

Cash	1241.05
National City Bank.....	15152.65
Corn Exchange Bank.....	1049.90
Current Expenses	519.82
Interest paid	61.11
Short account30
	<hr/>
	\$71586.93

LIABILITIES

Capital Stock	10000.00
Surplus	1125.00
Undivided Profits	638.43
Deposits	53835.65
Demand Certificates	1374.00
Time Certificates	4577.96
Certified Checks	34.68
Over account	1.21
	<hr/>
	\$71586.93

Q. Now, give us December 31, 1913?

A. December 31, 1913:

RESOURCES

Loans and Discounts.....	51252.42
Warrants	2511.41
Bonds	8564.92
Banking House, Furniture and Fixtures.....	4025.00
Real Estate Loans.....	5225.00
Cash	3085.86
Merchants Bank	3432.92
National City Bank.....	8965.82
Corn Exchange National Bank.....	1121.44
Overdrafts	506.69
	<hr/>
	\$88691.48

LIABILITIES

Capital Stock	10000.00
Surplus	1600.00
Undivided Profits	1136.82
Deposits ..	63655.76
Demand Certificates	3467.90
Time Certificates	8796.32

Certified Checks	34.68
	<hr/>
	\$88691.48

Q. Now, give us March 1, 1914.

A. March 1, 1914:

RESOURCES

Loans	52001.13
Warrants	3857.39
Bonds	8564.92
Banking House, Furniture and Fixtures.....	4012.50
Real Estate Loans.....	7325.00
Cash	1726.64
Merchants Bank	857.42
National City Bank.....	6768.24
Corn Exchange National Bank.....	766.22
Current Expenses	609.93
Interest	61.35
Overdrafts	312.97
Short accounts	3.15
	<hr/>
	\$86866.86

LIABILITIES

Capital Stock	10000.00
Surplus	2000.00
Undivided Profits	941.14
Deposits	64595.36
Demand Certificates	1717.04
Time Certificates	7578.64
Certified Checks	34.68
	<hr/>
	\$86866.86

Q. Give us December 31, 1914.

A. December 31, 1914:

RESOURCES

Loans	40687.50
Warrants	4009.05
Bonds	6300.00
Banking House, Furniture and Fixtures.....	3900.00
Real Estate Loans.....	5725.00
Cash on hand.....	5285.18
Merchants Bank	1077.43

Clallam Lumber Company
C. H. Ruddock and T. H. McCarthy

National City Bank.....	2560.67
Corn Exchange National Bank.....	1425.66
Port Angeles Trust & Savings Bank.....	1400.00
Overdrafts	47.11

\$72417.60

LIABILITIES

Capital Stock	10000.00
Surplus	2000.00
Undivided Profits	906.41
Deposits	48619.76
Demand Certificates	648.89
Time Certificates	9239.55
Savings Deposits	968.31
Certified Checks	34.68

\$72417.60

Q. Now, give in March 1, 1915?

A. RESOURCES

Loans	38157.81
Warrants	5296.05
Bonds	6300.00
Banking House, Furniture and Fixtures.....	3900.00
Real Estate Loans.....	6291.00
Cash	3775.32
Merchants Bank	1189.17
National City Bank.....	5935.10
Corn Exchange National Bank.....	1207.53
Port Angeles Trust & Savings Bank.....	1400.00
Current Expenses	532.81
Interest paid	73.28
Overdrafts	62.26

\$74120.33

LIABILITIES

Capital Stock	10000.00
Surplus	2000.00
Undivided Profits	1140.34
Deposits	50094.88
Demand Certificates	1483.07
Time Certificates	7659.98

Savings accounts	1625.22
Certified Checks	64.68
Over account	52.16
	<hr/>
	\$74120.33

Q. Mr. Schumacher, do you own the real estate where the Bank stands?

A. Yes, sir.

Q. What is the value of it?

MR. RIDDELL: I object to that until the witness's qualifications are shown.

A. At what valuation is that held by the bank as an asset?

MR. RIDDELL: I object to that as calling for a conclusion of the witness and a conclusion of the bank, and not being a true measure of the value of the property.

A. Well, it is carried on the books, including the bank building at twenty-one hundred dollars. That includes the building and the real estate. And the furniture and fixtures are listed at eighteen hundred dollars. I do not know how you can get at the value of the real estate without the building.

Q. Perhaps an explanation here is all that I want. Does this fourth item in your list of resources, banking house, furniture and fixtures, include the real estate on which the bank is located?

A. Yes, sir.

Q. That item is intended to cover your banking house and the lot that it is on?

A. Yes, sir; but, of course, the building is the chief value of the real estate.

Q. What rate of interest do you get here on an average of your loans?

MR. RIDDELL: I object to that as not within the issues in this case.

A. I think it will average about five per cent.

Q. And outside of the banking house do you own any other real estate?

A. Yes.

Q. Have you the description of it?

A. Not the legal description here; in section 29, I think it is, 160 acres, and in township 30, range 3. The legal description is the south half of the southwest quarter of section 3, the southeast quarter of the southeast quarter of section 4, the northwest quarter of the northwest quarter of section 10, township 29, range 4, west.

Q. Is that 160 carried on your bank books as a resource?

A. Yes, sir.

Q. At what valuation is that carried?

A. We are carrying it at twenty-two hundred dollars.

MR. RIDDELL: I object to that. My objection goes to all this that it is hearsay, and the witness is not qualified, and what the bank carries it on the books at is not a true measure of the value.

Q. I will ask you whether that is the valuation at which this property was taken over?

A. No, sir; that was the amount of our claim.

Q. I assume that it was taken over in payment of some indebtedness to the bank?

A. That is the amount of our claim, including the cost, interest and lawyers' fees.

Q. Was it taken over on an execution?

A. It was taken over on an execution.

(Witness excused.)

(Hearing adjourned to take further testimony at Port Angeles, June 17th, 1915.)

JAMES PETER CHRISTENSEN, produced as a witness on behalf of the plaintiffs, having been first duly sworn to testify to the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. EARLE:

Q. What is your full name?

A. James Peter Christensen.

Q. Your business.

A. Cashier of the Citizens National Bank.

Q. How long have you been cashier?

A. Ten years.

Q. How long has the bank been organized?

A. About twelve years.

Q. You have been cashier continuously for the last ten years?

A. Yes, sir, for the last ten years.

Q. As cashier of the bank is it your duty to keep the books of the bank, and among them a statement showing the financial condition of the bank from day to day?

A. Yes, sir.

Q. You have a book in which those original entries are made?

A. Yes, sir.

Q. Produce that? (Witness producing book.) Refer to your statement for the first of March, 1910.

A. As you know, you have my sworn statements, and this is identical with the books.

Q. You have the statement for 1910?

A. Yes, sir, for 1910, 1911, 1912, 1913, and 1914.

MR. EARLE: Will you stipulate that he may not read these statements, and they may be kept by Mr. Williams, the reporter, and that will constitute his testimony?

Q. (Mr. Riddell.) Mr. Christensen, you prepared them to let the stenographer have them?

A. Yes, sir.

Q. They are the statements of the financial condition of the bank on the dates mentioned therein?

A. Yes, sir.

Q. They are the ones from March 1, 1910, 1911, 1912, 1913 and 1914?

A. Yes, sir.

Q. Do those statements show the value of the real estate owned by the bank at the times purported therein?

A. Yes, sir. Permit me to say that the comptroller does not permit us to hold any real estate, but if it is necessary to foreclose and take a piece of real estate we can do that. At a few periods we have had one piece at a time, I do not think any

more, and for that reason, as you know, it at all times shows what real estate we had at that time; but the biggest portion of the time, we haven't had any real estate.

BY MR. EARLE:

Q. Now, take the first of March, 1914, did you hold any real estate at that time?

A. No, we did not, not at that time.

Q. What is your average rate of interest earned by the bank on its loans?

A. The average rate of interest earned by the bank on its loans to the best of my knowledge and belief, is about eight per cent.

Q. Would that hold true, too, of the bonds and warrants?

A. That they pay that much interest?

Q. Yes, sir.

A. No.

Q. What would be the average of them?

A. Those rates of interest are five, and the highest rates of interest on the warrants used to be eight per cent. It is a hard thing for me to average them, and in my best judgment it is not over six and a fraction.

Q. Would it average about six and a half?

A. Perhaps it would average about six and a half. We hold fifteen thousand dollars worth of Clallam County School warrants, and they only pay five per cent. If you permit me to refer to the books—

Q. The average rate is all we care about.

A. The average rate is about between six and six and a half.

Q. What dividend have you paid in 1914 for that year?

A. In 1914 we paid twenty per cent.

MR. EARLE: The attached statements marked exhibit "A", "B", "C", "D", "E" and "F" are offered in evidence.

(Exhibits above named admitted in evidence and made a part of the testimony of the witness.)

CROSS EXAMINATION

BY MR. RIDDELL:

Q. How long have you lived here?

A. I have lived here twenty-five years.

Q. Are you fairly well acquainted throughout the County?

A. Yes, sir.

Q. For a long time there were only two banks in Port Angeles, were there?

A. Yes, sir.

Q. This bank and the Bank of Clallam County?

A. Yes, sir.

Q. Did practically all the banking business that was done in the County?

A. Yes, sir.

Q. In that way you have become acquainted in a business way with practically all the responsible business men in the County?

A. Yes, sir.

Q. Were you familiar with the personnel of the County Commissioners and with the County Assessor, John Hallahan, and County Treasurer, C. L. Babcock, in the year 1910.

A. Yes, sir with Mr. Babcock and Mr. Hallahan in 1910.

Q. And at that time Mr. Lauridsen, who, I think, is president of this Bank, was also one of the County Commissioners, was he not?

A. Yes, sir, vice president.

Q. Do you know who the other County Commissioner was?

A. Hans Bugge.

Q. Now, Mr. Lauridsen was County Commissioner from Port Angeles at that time?

A. Yes, sir.

Q. And he was succeeded by John C. Hanson?

A. Yes, sir.

Q. And Mr. Hanson has since that time been the Commissioner from this district?

A. Yes, sir.

Q. John Hallahan continued to be County asses-

sor until just recently, at the last election he was succeeded by Mr. Prickett.

A. Yes, sir.

Q. And Mr. Babcock at the last election was succeeded by Stewart H. Woods?

A. Yes, sir.

Q. Do you remember who was the County Commissioner from the east end succeeding Hans Bugge?

A. It was Frank Lotzgesell.

Q. And after him?

A. After him goes Jim Dick.

Q. Who is the present County Commissioner from the east end?

A. Yes, sir.

Q. You are familiar with all of those gentlemen, are you?

A. Yes, sir.

Q. With them personally and their business reputations?

A. Yes, sir.

Q. And with their integrity?

A. Yes, sir.

Q. Mr. Christensen, do you know whether or not as a matter of fact there was ever a conspiracy on the part of those gentlemen, or any of them, either among themselves, or with anybody else, so to have the assessments, for the purpose of taxation made in Clallam County as to throw an undue burden of taxation on any particular set of individuals; was there any such conspiracy at any time?

MR. EARLE: I object to that as calling for a cross examination inasmuch as the witness's direct examination was not taken into that matter at all.

MR. RIDDELL: Yes; I will make him my own witness for that purpose.

MR. EARLE: All right.

A. Decidedly not.

Q. During the period from 1910 to the present date you have been actively engaged in business in Port Angeles?

A. Yes, sir.

Q. State whether or not you are familiar with the general trend of public opinion in this community and in the community as a whole?

A. Yes, sir, I am.

Q. State whether or not there is, or since 1910, ever has existed any public opinion favoring the imposition of an undue burden of taxation on any individual, or set of individuals in the County?

A. Absolutely not.

Q. State whether or not the charge that there has been a conspiracy on the part of the County officials whose names have been mentioned here, or on the part of any of them to enter into any sort of a conspiracy of that kind, is a libel on those men?

MR. EARLE: I object to that as not proper conclusion.

A. Yes, sir.

Q. Would a statement that there has been any such conspiracy on the part of any of those men be true?

A. No, sir.

Q. Have the people either in Port Angeles, or any other portion of the County that you know of ever been in favor of putting any undue burden of taxation on the timber men in the west end of the County?

A. Absolutely not.

Q. Has the bank, or has any officer, or depositor of your bank, ever made any representations to any of the taxing officers of Clallam County for the purpose, or looking to an assessment of your bank in such a way that you should escape a portion of the burden of taxation which you ought to bear?

A. None whatsoever.

MR. EARLE: I would like to ask one or two questions on cross examination.

CROSS EXAMINATION

BY MR. EARLE:

Q. I understood you to say on direct examination, Mr. Christensen, that there has never been a state of public opinion here demanding the imposition

of a greater burden of taxation on timber than should be, is that correct?

A. Your question is that there has never been any?

Q. Yes, sir, I understood you to say that?

A. Yes, sir; I testified that there has never been any.

Q. And never has been any public demands?

A. No.

Q. Don't you know that there has been a state of public opinion here in Port Angeles which most insistently demanded that this timber be subjected to a very high rate of assessment?

A. In brief I could say, "No, sir, None whatsoever." If you permit me to qualify—

Q. Certainly, make your answer as full as you please.

A. Several years ago there was a general public opinion that they did not get a proper taxation out of the timber, and due to having no cruise, and such things as that; that some of the timber men escaped taxes.

Q. Confining your remarks to the time that the cruise was begun; not earlier than 1910. That is the scope of time I intended to cover in my question?

A. No, sir, there has been none.

Q. Isn't it your own private opinion, Mr. Christensen, that timber is being assessed at a higher ratio of the true value than other classes of property in the County?

A. No, sir, it is not, from my knowledge and belief.

Q. What?

A. From the best of my knowledge and belief; I am not conversant with the timber holdings, and I have not had access to the books and so forth, but absolutely not.

Q. You mean to say that you are familiar with the values of the timber lands, personally familiar?

A. To some extent.

Q. And of the timber land with the value of

which you are familiar, would you say that the assessment was a fair assessment as compared for instance with the assessments on your bank here?

A. Yes, sir.

RE-DIRECT EXAMINATION

BY MR. RIDDELL:

Q. You began to tell the situation as it existed here in 1910, prior to 1910, and prior to the making of that cruise; do you know whether or not the timber men in the County had for years continuously been escaping their proper and just share of the burden of taxation in this County?

MR. EARLE: I object to that as going beyond the period not in issue in this case.

A. Yes, sir.

Q. They had been for years escaping a just share of the burden of taxation?

MR. EARLE: I object to that. What happened years ago we are not concerned now with that rate of assessment at issue in the litigation?

A. Yes, sir.

Q. Do you know the purpose of the cruise when it was made at that time?

A. The purpose was to get a just and fair adjustment of the tax payers of this County.

Q. Do you know whether or not in a general way that has been done?

A. Yes, sir.

Q. Mr. Christensen, you testified in answer to some questions of Mr. Earle's that you were not familiar in detail with each particular piece of property?

A. No, sir.

Q. But the general mass of the County, the general mass of the property in the County has been attempted to be assessed at a fair and just proportion of taxation?

A. Yes, sir.

RE-CROSS EXAMINATION

BY MR. EARLE:

Q. In stating that as compared with other property you considered the assessment as fair; did you

take into account the fact that timber land is a non-income bearing property?

A. I think so, yes, sir.

Q. Do you consider that property on which no income is being earned should be assessed at the same rate as property on which a larger rate of income is being earned, is that your idea of fairness?

A. I can explain it. Sooner or later, either the estate or the timber that is not income bearing now, in time, we expect that to bring returns.

Q. If it does not burn up in the meantime?

A. Yes, sir, that is true.

Q. Did you take into consideration, the large element of risk?

A. I did not of that; I did not take that into consideration.

Q. Now, reconsidering the matter in considering that timber as a non-income bearing property, and suspecting a rather high rate of fire risk, would you still say that you considered that timber property is being assessed at a fair rate as compared with other property in the County and income bearing property.

A. If you will permit me to say—I have personally been through those timber holdings in the west end of the County, and in my estimation there is a larger portion of that timber which is not exposed to a fire risk to any great extent. Personally I do not consider the fire risk as so great; but my statement, as far as the taxation goes is just qualified to that extent, you know. I did not take into consideration that fire risk, possibly an allowance ought to be made for that.

Q. In speaking of the risk in the west end, did you have in mind all the tremendous area of burned country between the west end of Lake Crescent and Beaver Creek?

A. Sol Duc Beaver Creek?

Q. Yes, sir.

A. Yes, sir; but when you go down to around Sapho, and big bodies of timber in there I do not think there is such a big fire risk. I would personally take the chances in buying timber and not consider that

risk very great; but as you say, there is a risk wherever timber is located along these ridges, that is true.

Q. With the fire risk in mind and the non-income bearing character of the property in mind, would you say that property is fairly assessed in your opinion?

A. I do.

(Witness excused.)

Indorsed: Depositions of witnesses taken on Stipulation by A. D. Williams, Notary Public, at Sequim and Port Angeles January 15, 1915. Filed August 30, 1915.

Thereupon plaintiffs rested, and the evidence was closed.

After the closing of the evidence in these causes and at the time of argument thereof the defendants asked leave of the Court to amend their answers filed in these causes, in order, as they contended, to make the allegations conform to the proofs. This was objected to by the plaintiffs upon the ground that the proposed amendments did not conform to the proofs, but were directly contrary to and inconsistent with the proofs and contrary to the issues made by the defendants and the theory upon which the cases were tried throughout by the defendants, and were unfair to the plaintiffs.

These objections were overruled by the Court, exceptions taken and allowed. The following discussion ensuing:

MR. PETERS: That puts an entirely different phase upon the whole case. It seems to me that is rather material.

THE COURT: They would be allowed to amend; whether you want to ask for a continuance and put in further proof or not, is different.

MR. PETERS: I can't put in that.

MR. EWING: The proof went in here upon a definite basis. It went in with no objection to it on the score that it was inconsistent with the pleadings. There has been no definite basis of fifty per cent, or anything else adopted.

THE COURT: You will be allowed to make the amendment.

The amendments proposed were thereafter embodied in amended answers filed herein on the 31st day of January, 1916. The pleadings, however, were treated and considered by the Court at the time of their submission as so amended. The more important amendments are as follows:

Defendants had plead as paragraph IX and X in the Ruddock & McCarthy cases, being numbers 37 and 57, and as paragraphs XIII and XIV in the Clallam Lumber Company cases, being numbers 36 and 56, as hereinbelow set out, and the amendments proposed and admitted to these allegations, were as set out in the way of interlineations and parts omitted in the way of brackets, below, to wit:

“XIII. With reference to paragraph XIII of said amended bill, the defendants ^{admit}_{deny} the practice by assessors and taxing boards of the custom therein referred to, and ^{admit}_{deny} the pursuit of such custom by county assessors and its recognition and acquiescence by the State Board of Equalization; deny that the assessor of Clallam County gives out and pretends that for the year 1913 he assessed taxable property within Clallam County upon the basis of fifty three per cent of its true and fair value in money, (or upon any other or different basis than that provided by the laws of the state of Washington at the time the assessments for the years 1912 and 1913 were made;) ^{admit}_{deny} that the members of the County Board of Equalization give out and pretend that they equalized and approved the assessments upon the taxable property within said county upon the basis alleged in said paragraph (or upon any other or different basis than that provided by the laws of the state of Washington at the time the assessments for the years 1912 and 1913 were made;) ^{admit}_{deny} that the interior timber lands in said county, including the lands owned by the plaintiff, were and are valued in the year 1913 for the purpose of taxation at sums in excess of fifty-three per cent of the true and fair value thereof in money;

(deny) that other properties in said county, real and personal, were valued at sums less than fifty three per cent of the true and fair value thereof in money; deny that the plaintiff was discriminated against grossly and intentionally or at all, by the assessing officers of Clallam County in the matter of assessment and taxation of its lands for the year 1913.

XIV. With reference to paragraph XIV of said amended bill, the defendants admit that the timber upon the lands of the plaintiff, as shown by the cruise made by the County of Clallam, amount in the aggregate to the figures set forth therein, approximately 2,551,000,600 ft. and that the assessments upon said lands for the year 1913 were made upon the basis of said cruise; deny that the timber upon the lands of the plaintiff was overvalued greatly or at all by the assessing officers of said county in the valuation put thereon by them for the purpose of taxation in the year 1913; admit that the valuations placed by the assessing officers of said county upon the lands of the plaintiff for the purpose of taxation for the year 1913 amount to the figures therein set forth, \$1,711,505; deny that the true and fair value in money of said lands does not exceed the sum of \$2,050,000 and did not exceed that sum in the year 1913; deny that said assessment for the year 1913 was made upon the basis of 83½ per cent (or upon any other or different basis than the true and fair value in money of all the property assessed;) (deny) that no property in said Clallam County, save the timber lands owned by the plaintiff and certain other timber lands similarly situated, was assessed in said year 1913 at so great a proportion of its true and fair value in money; deny that the assessment upon the lands of the plaintiff, or upon any other lands or other property in said county, was in pursuance of any combination and conspiracy between the assessor of Clallam County and the other members of the County Board of Equalization of said county as alleged in said paragraph or at all."

Plaintiffs excepted to each and all of the foregoing proposed amendments upon the grounds here-

inabove set out, and said objections were overruled, exceptions taken by the plaintiffs and allowed by the court.

In paragraph XXI of defendants' answer in the Clallam Lumber Company cases Nos. 36 and 56, corresponding to paragraph XVII in the Ruddock & McCarthy cases Nos. 37 and 57, the defendants had formerly plead as follows:

"Admit that upon the straits of Fuca and immediately adjoining tide water there lie fine bodies of fir, spruce, cedar and hemlock timber, which can readily be logged to the Straits as stated, and that extensive logging operations now are and for many years have been carried on in that portion of Clallam County."

Their proposed amendment to this is as follows:

"Admit that upon the Straits of Fuca and immediately adjoining tide water there lie fine bodies of fir, spruce, cedar and hemlock timber, but deny that same can readily be logged to the Straits as stated, admit that extensive logging operations now are and for many years have been carried on in that portion of said Clallam County.

SANFORD C. ROSE,
Prosecuting Attorney,
DEVILLO LEWIS,
Deputy Prosecuting Attorney,
JOHN E. FROST,
EDWIN C. EWING,
JONES & RIDDELL,
Attorneys for Defendants.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF
WASHINGTON, NORTHERN DIVISION
IN EQUITY—No. 36

CLALLAM LUMBER COMPANY, a Corporation,
Plaintiff,

vs.

CLALLAM COUNTY, a Municipal Corporation and
CLIFFORD L. BABCOCK, Treasurer,
Defendants.

IN EQUITY—No. 37
CHARLES H. RUDDOCK and TIMOTHY H.
McCARTHY,
Plaintiff,
vs.
CLALLAM COUNTY, a Municipal Corporation and
CLIFFORD L. BABCOCK, Treasurer,
Defendants.

IN EQUITY—No. 56
CLALLAM LUMBER COMPANY, a Corporation,
Plaintiffs,
vs.
CLALLAM COUNTY, a Municipal Corporation and
HERBERT H. WOOD, Treasurer,
Defendants.

IN EQUITY—No. 57
CHARLES H. RUDDOCK and TIMOTHY H.
McCARTHY,
Plaintiffs,
vs.
CLALLAM COUNTY, a Municipal Corporation and
HERBERT H. WOOD, Treasurer,
Defendants.

STATEMENT OF FACTS
CERTIFICATE OF JUDGE

I, the undersigned, hereby certify that the foregoing is a true, complete and properly prepared statement of all of the testimony introduced upon trial of the above entitled causes in the UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON, NORTHERN DIVISION, essential to the decision of the questions presented by the appeal of the said causes and of each of said causes herein petitioned for and allowed by said District Court, together with all evidence and objections made and taken to the admission and exclusion of evidence, and all motions and rulings thereupon made upon said trial, and that said statement

contains all material facts, matters and proceedings heretofore occurring in the trial of said causes and of each of said causes.

I further certify that the said causes were consolidated for trial and were tried together by consent of all of the parties, and upon the same evidence, testimony and record, and that the undersigned judge sat in the trial of the said causes by authority of the request of the judge at the time presiding in the above court.

And I further certify that said testimony, together with the original exhibits offered and admitted upon the trial of said causes, consisting of plaintiffs' exhibits lettered serially from A to Z, AA, BB, CC, DD, EE, FF, DD, HH and exhibits of defendants numbered serially 1 to 38, both inclusive, constitute all of the evidence introduced upon said trial essential to the decision of the questions presented by said appeal, and the same is hereby approved.

Such of said testimony as is reproduced in said statement in the exact words of the witness is so reproduced at the special instance and desire of the above named appellants and respondents, and the court hereby directs such reproduction.

Dated at Seattle, Washington, this 27th day of October, 1916.

EDWARD E. CUSHMAN,
United States District Judge of the United States District Court for the Western District of Washington, Northern Division, presiding at the trial of said cause in the Northern Division.

ENDORSED: Statement of Evidence, filed in U. S. District Court, Western District of Washington, Northern Division, the 27th day of October, 1916.

FRANK L. CROSBY, Clerk.